Debates

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Wednesday, 23 June 2010

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Wednesday, 23 June 2010

The Assembly met at 10 am.

(Quorum formed.)

MR SPEAKER (Mr Rattenbury) took the chair and asked members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

Planning and Development (Notifications and Review) Amendment Bill 2009

Debate resumed from 9 December 2009, on motion by **Ms Le Couteur**:

> That this bill be agreed to in principle.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation and Minister for Gaming and Racing) (10.02): The Planning and Development (Notifications and Review) Amendment Bill 2009 has been introduced into the Assembly with the claim that the bill will enable rectification of defects in notification, enhance appeal rights and processes and close loopholes in the act.

In reality, Mr Speaker, the bill as presented makes radical changes with major implications for the current planning processes and the operations of the Civil and Administrative Tribunal. The government will not be supporting this bill. The leading practice aspects of the current Planning and Development Act would be undone if this bill were to take effect.

The current Planning and Development Act was developed over a number of years. Its development included wide consultation with industry and with the wider community. It took note of and was informed by COAG processes, and it was passed with the support of all parties in this place. The direction and scope of the current Planning and Development Act is consistent with continuing planning reforms across Australia.

The territory's current planning legislation puts the community and the Assembly at the forefront of setting planning policies and specific development requirements. But it does so whilst keeping politics out of planning. That is why our current planning legislation can be applied with a high degree of certainty and minimises the need for ad hoc review.

Mr Speaker, the changes to appeal and review process in the bill will significantly diminish certainty in planning decisions. They will usher in an appeals regime that is basically unconstrained by planning rules. This would lead to "ad hocery" in the application of planning rules and policies within the territory. In simple terms, the amendment bill will give us more complexity, more ambiguity and less predictability. It will certainly put politics back into planning.

Before turning to the major elements of the bill, I must comment on the reliance on New South Wales law that appears to underpin this bill. New South Wales planning law is more restrictive in terms of third party appeals than current ACT law. The proposed amendments would go well beyond both current ACT and New South Wales planning laws. Cutting and pasting sections of New South Wales planning law into the ACT planning law is certainly not a good basis for further planning reform.

In New South Wales the right of third party merit review applies to designated development which approximates our impact track assessable development. Other than that, there is no third party merit review right within New South Wales planning law. In her speech, Ms Le Couteur quoted section 123 of the New South Wales Environmental Planning and Assessment Act extensively, and it is reflected in this bill. I am advised that this section only creates a right of appeal on the grounds that a planning decision breaches that act. This provision exists in New South Wales law to allow people to challenge the legality of the planning decision but it does not permit a full review of the merits of the decision aside from its legality.

Mr Speaker, I now wish to turn to the impact of the major provisions of this bill. Initially I will deal with the provisions of the bill in relation to the rectification of errors in notification. Currently, when ACTPLA determines a DA, the validity of that determination is not affected simply by ACTPLA's failure to notify correctly. As the scrutiny of bills committee noted in its report No 18 dated 1 February this year on this bill, such a provision is not uncommon. This bill removes that protection. So if ACTPLA inadvertently exclude a comma or misspell a word in a DA notification, that DA approval becomes invalid.

As the bill stands, this could occur even when a DA decision is challenged six months after the approval. This would create utter chaos in our planning system. The provisions appear to have been drafted without any discussion with ACTPLA on the extent and the number of such errors and how they are dealt with currently. It is also clear—and perhaps not surprising—that industry views were not considered.

This brings us to the Latham DA which is being used as an example for the need to introduce these provisions. Following this case, ACTPLA has reviewed its internal procedures concerning verification of notifications. As a result, the government will be introducing amendments to the Planning and Development Act to provide a legislative process to allow re-notification of applications. These will be able to occur prior to any decision being made on the DA where there may have been a deficiency in notification. This, Mr Speaker, is an effective and practical response to this issue.

The government is acutely aware of the responsibility the current act imposes on ACTPLA to get it right. Ultimately, the current requirements and the government's foreshadowed amendments represent the best balance between correction of potential notification errors and the efficacy of the entire development approval process.

The bill also proposes to extend the right of ACAT merit review to any person who makes an objection. This would be the case irrespective of whether that person would potentially suffer material detriment, provided they made an objection during the

public notification on the development application. Appeals will also be open to any person—even if they did not make an objection during the public notification—provided they show their interests might be affected in some way.

This means that where, for example, someone wants to build an extension on their home in one part of the city, someone in another part of the city could lodge an appeal for reasons unrelated to planning issues. This bill would reintroduce the ability for appeals to be used as a means to frustrate legitimate market competition.

Mr Speaker, the bill would remove the existing provisions that prevent appeals from businesses fearful of losing business or profits from competition, irrespective of the benefit of greater convenience and choice for the community. In fact, the grounds for appeal, and the range of those who can bring an appeal, become almost endless under this bill.

In addition, the bill would remove time limits in which an appeal can be brought. Of even greater significance is the provision that would allow ACAT to reconsider all aspects of the territory plan. This further erodes the concept of the Assembly and the community setting the parameters in which people are free to undertake their activities. It attacks any concept of certainty.

A person could not rely on rules or criteria in preparing a DA as they may not be applicable in the event of appeal. I am not sure that this is really the procedural fairness that the Greens party are seeking. There is also confusion about whether there is an intention to extend merit appeals to all merit track applications. Ms Le Couteur in her presentation speech said:

> … it ensures that ACTPLA undertakes full public notification with the full information available at the onset on all merit and impact track DAs.

Yet the bill will not achieve this stated aim. For example, the bill does not remove the existing restriction of third party appeals in the merit track to only those matters that require full public notification as opposed to minor matters that do not require full public notification. The bill appears to remove a note on section 152 of the Planning and Development Act on the assumption that this distinction is no longer relevant yet the bill leaves this distinction in place. While not clear, the reference to full notification of all merit DAs and the deletion of the note would seem to be indicative of an intention to subject currently non-appellable merit track applications to merit review.

Mr Speaker, the combined effect of the provisions mentioned so far would be to create an open-ended merit appeal right where territory plan provisions are open to endless reinterpretation by differing decision makers. Perhaps somewhat inconsistently, the bill does, however, leave some of the current restrictions on appeals in the planning and development regulation in place.

In summary, this bill is not simply about a few improvements. It is a fundamental and radical rewriting of appeal rights. In addition, little thought appears to have been given to the resource impacts on both ACTPLA and ACAT if appeals are broadened

in the manner outlined in this bill. Apart from a statement based on New South Wales experience, I wonder what consideration has been given to the implications of a significant increase in appeals in terms of delays, costs to proponents and the commitment of government resources. ACAT appeals are significantly resource-intensive for ACTPLA and may lead to a redirection of resources to appeals and away from progressing applications.

Mr Speaker, let me reiterate that this radical bill would spell an end to the ability of the planning system to deliver fast, well-considered and consistent planning decisions. It would spell an end to rules and outcomes that can be relied upon. Under this bill, delay and uncertainty would become the order of the day.

The bill achieves these unwanted results by permitting third party appeals at any time after the grant of a development approval, making all DAs vulnerable to challenge at any time on the basis of public notification flaws, by permitting multiple ACAT appeals on the same DA, by permitting the appeals process to revisit the territory plan, by permitting anyone to appeal a DA even if they have no practical interest in the matter and by permitting the appeal process to be used as a tool to defeat legitimate market competition.

Mr Speaker, any one of these features is problematic in itself. But taken together they amount to a bill which the government simply cannot support. Once again, the Greens demonstrate good intentions but have trouble translating these intentions into real outcomes. The government has decided not to seek to amend this bill to address the concerns I have outlined. Instead, we will bring forward workable amendments as part of the scheduled planning and development reform process during 2010-11.

MR SESELJA (Molonglo—Leader of the Opposition) (10.14): I rise to speak on the Planning and Development (Notifications and Review) Amendment Bill 2009. I note that the bill, as outlined in its explanatory statement, seeks to ensure that the ACT Planning and Land Authority undertakes full public notification, with the full information available at the outset, on all merit and impact track development approvals; allows ACTPLA and the Civil and Administrative Tribunal to consider a broader range of issues when reviewing DA decisions; and increases standing for community members to appeal DA decisions. I thank Ms Le Couteur for her work in bringing forward this bill and for the briefing she provided to my office.

While the Canberra Liberals acknowledge the intent of the bill, we are unable to support it. We have considered the intent and the potential ramifications. We have compared it with current systems in other jurisdictions, especially New South Wales, and have carefully considered the problems of the past and the potential ramifications for the future. We have reviewed the community groups' motions and some of the sites that have particularly brought this issue to the fore, such as the site in Latham. We have also spoken to industry groups and developers and experts in the field.

After doing this work, our considered view, on the balance of the evidence, is that this bill may meet the needs of some but, when considering all parties' needs, has too much potential to further clog what is already a slow and congested system. We believe that the bill will cause more disruption within the planning system of the ACT.

This system is by no means perfect, but introducing more uncertainty, more appeals and more delays is not the way to address these issues.

I also note that some of the reforms that have moved us to this point have been supported by the Canberra Liberals and that this bill would unravel some of those reforms.

I will take each area of main concern in turn, but I will start with what is likely to be the most contentious and contended in the marketplace—the move to broaden standing in the appeals process.

The bill inserts a number of provisions that would possibly greatly increase the number and type of persons or parties who could lodge appeals. The current provisions have been developed over many years as a reasonable, workable balance between the needs for territory growth, renewal and development and the rights of residents and neighbours. It has taken many contentious cases for this balance to be worked out and, although possibly not perfect in every instance, the system does attempt to strike a reasonable balance.

The proposed changes, we believe after much discussion, tip the balance too much in one direction and could also create potential unintended consequences. We understand from our discussions with industry that the unintended consequences of this bill could be severe. Industry has been very clear on this. We note that stakeholders have expressed deep concerns about how the bill will impact on the construction industry in Canberra and the impact that the bill may have on the level of appeals within ACAT.

The Planning Institute of Australia wrote to the Minister for Planning, the Greens convenor and I in early February. The institute said:

> We consider the Bill has the potential to seriously affect the carrying out of orderly and economic development activity within the Territory by introducing a significant extent of uncertainty in the Development Application process.

Chris Peters from the chamber of commerce said:

> It will make a dreadful situation even worse. It will add further delays, uncertainty, and significant extra costs to the process and will make developments even more expensive.

The HIA said:

> On reviewing the ACT Greens amendment Bill it is clear to HIA that, if adopted, it would impact severely on the planning system by affording far too many rights to objectors that could be open to exploitation. Developments could be obtrusively halted or delayed at a significant cost to the developer and end user.

This moves in part to the notification proposals in this bill and shows the sort of unintended consequences that may arise. The HIA further notes:

> Even more farcically, approvals can be revoked after site and building works have commenced, removing the certainty of an approval. Industry should not be

> penalised for the procedural, administrative or interpretive errors of the approval agency.

The HIA raises an important point. There are many small businesses involved in the building and construction industry. This bill has the potential to severely impact on those businesses, particularly small builders, who face very significant holding costs on developments. We are aware of one builder—an example of many others—who is a small businessman who has been paying $500 a day in holding costs while his development has been stuck in the ACAT. These businesses should not be penalised by government errors.

These are important voices raising serious points, and their views must be considered. The Property Council has stated that it does not support the amendments proposed in the bill as they would not set out leading practice principles set out in the Property Council's DAF model, and that they will result in increased instances of abuse of the third-party appeals process. This is another important point. It is well known that the ACAT is at capacity now. We should not be putting more pressure on the ACAT when it is apparent that the feedback that we are getting is that it already takes too long to move cases through the system.

We are also concerned about the amount of money the government already spends in cases in ACAT. The Minister for Planning, when asked by the estimates committee what the total amount spent on legal fees in defending cases by ACTPLA in this financial year to date was, informed the committee that it had spent $565,467.

When it comes to the issue of the number of claims that may or may not ensue, the Greens have stated that the New South Wales jurisdiction, upon which they place some reliance that these changes will not open the floodgates, has an entire judicial tier, a whole court, that does nothing but deal with these issues. Notwithstanding that New South Wales is obviously a much larger jurisdiction, it is still instructive that it requires the mechanisms of an entire court structure solely to deal with planning and environment issues. And, obviously, if there are not going to be any extra claims, why is there any need to broaden the standing? It can only be to allow claims from people or groups who are at the moment not granted standing because, although they are interested in an issue, their interests are not affected enough by an issue to warrant halting the growth or development of the city.

The other main issues raised in this bill include giving ACTPLA and ACAT the right to consider what is ostensibly a broader range of matters when reconsidering a planning issue.

We have had some discussions with Ms Le Couteur's office about the situation as it currently stands, which is in the Planning and Development Act, schedule 1, "Reviewable decisions, eligible entities and interested entities", item 3, which confines the decision to being "subject to a rule and does not comply with the rule; or … is not subject to a rule". The proposed amendment, in clause 20, proposes to remove the clause confining merit track review to being subject to a rule, which means, as I understand it, that the overall intent of the territory plan can be considered.

However, there are two points to be made here. First, the rules have been developed over many years as a precise expression of the intent of the plan. Second, what other things will be raised as being able to be considered if that limitation is removed? Once again, this broadening will actually introduce another level of uncertainty, another grey area, that will require developers and builders to second-guess what the overall intent of the plan actually is and how it might be applied in their particular case.

Mr Speaker, there are serious concerns from significant players about the consequences of this bill—too many concerns from too many groups. As a result of those concerns and our longstanding principle that we want an effective and efficient planning system that balances the needs of the community to have a say with the need to not have unreasonable delays in the planning system, which are already evident—for all of these reasons, we will not be supporting the bill.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (10.22): I would like to briefly address each of the three issues that this bill addresses.

The first is notification. There are a number of legislative schemes that provide that, where the legislative process has not been followed, an outcome may still be valid. However, these exemptions usually apply only to matters where invalidity would adversely affect the weaker party; where it is out of the decision maker's hands or the decision maker could not know about it at the time and the likelihood is that it would not materially affect the outcome; or where the costs or practicalities of rectifying that outcome are onerous, unreasonable or simply not practical.

Whilst there are, of course, examples where this is not the case, and we would disagree with the merits of the exemption, for the majority of cases the reasons I listed above apply. Let me give some examples from the ACT to illustrate the point.

The Road Transport (Third Party Insurance) Act 2008, section 27, ensures that deficiencies in the insurance policy documents cannot operate to invalidate a compulsory third-party policy. This, of course, protects policyholders and places the onus on insurers, who have a significant advantage in the relationship.

The Wills Act 1968, section 13, provides that where signatories to wills are unaware of the nature of the document they have signed, this does not affect the validity of the will. This makes sense. It is, of course, impossible for the deceased person to rectify the error.

The Electoral Act 1992, section 56, provides that decisions on electoral boundaries made by the commission are not invalidated if there is an error in the process. The waste of public money in holding another election because the process for the decision on the boundary was flawed, as well as the impracticability of doing so, makes it simply unreasonable.

Also, in the Planning and Development Act 2007 itself, section 246 provides that the validity of a lease is not affected where ACTPLA has not complied with the section. In this case, it operates to protect those who have acted in good faith from any error

on the part of ACTPLA, who are administrators of the system and should not make that type of mistake. This is a fair and reasonable application of this type of clause.

Exactly the same principle should apply in the instances covered by the bill. ACTPLA administers the notification scheme and it is therefore at a significant advantage over the average member of the public who would know very little about the notification requirements in the Planning and Development Act. There is very little cost involved to correctly notify the development application and it could well be that members of the public may be forced to suffer a significant detriment without ever having had the opportunity to put their case. Given the reliance our planning system places on objector comments, it is proportionate and reasonable to ensure that the community are given a fair opportunity to have their views heard.

The second key issue is the proper ACAT review of ACTPLA decisions. The current schedule 1 to the Planning and Development Act sets out 49 reviewable decisions. Only one, the review of merit track decisions, has this additional limitation that confines ACAT to the extent that the development proposal is subject to a rule and does not comply with the rule or is not subject to a rule. This is inconsistent with section 68 of the ACAT Act, which provides, at subsection (2):

> The tribunal may exercise any function given by an Act to the entity for making the decision.

It is also inconsistent with the well-established principle of merits review that the reviewer should stand in the shoes of the decision maker. In Drake and the Minister for Immigration and Ethnic Affairs, Justices Deane and Bowen established that the role of merit review tribunals is to determine the question as to whether the decision that was made is the correct or preferable one on the material before the tribunal. That is, the tribunal is not restricted to the material that was considered by the decision maker or even by the material that was presented by the parties.

This is a well-established role of Australian merits review tribunals and I see no reason for a departure from it for the decisions of ACTPLA in approving, or otherwise, decisions in the merit track. The ACAT Act adopts the same language as used in the Administrative Appeals Tribunal Act, which was the subject of review by the Federal Court in that case. I have no reason to think that it would be applied any differently in the ACT.

I have reviewed the 56 ACT acts which have a schedule of reviewable decisions that provide for ACAT to review decisions. I seek leave to table a list of the acts rather than reading them out.

Leave granted.

MS HUNTER: I table the following paper:

> Acts that include schedules of reviewable decisions—List.

I think that this is all; if not, it is very close to all. I have not found a single reviewable decision, of the many hundreds of reviewable decisions listed in the schedules to each

of these acts, that sets boundaries on what ACAT considers in relation to a reviewable decision apart from the decision subject to this amendment. This is indeed a unique provision and one that I can find no reasonable justification for. As I said, it is contradictory to the 31 years of jurisprudence on merits review tribunals that we have in this country and fundamentally undermines what is one of the world's most developed systems of administrative law.

This amendment does not seek to do anything radical. Rather, it corrects an error and facilitates better scrutiny by an independent tribunal to ensure that the executive is exercising its functions in accordance with the law and providing a means of redress where the correct or preferable decision has not been made on the merits of the case.

Finally, I would like to turn to perhaps the most controversial issue, the issue of standing. What the amendment does is amend the requirements to bring a matter before ACAT so that an eligible entity for the decision—that is, a person who made a submission during the consultation period or any other person whose interests are affected by the decision—can appear before the tribunal and seek review of the decision. The amendment does not go as far as the New South Wales planning legislation, which provides no limits on those who may appear before a court or tribunal in relation to planning matters.

Why do we have standing requirements? It is important to answer this question before we evaluate what these requirements should be. The best description I have come across can be found in the judgement of Justice Graham in Hussein and Secretary of the Department of Immigration and Multicultural and Indigenous Affairs. He said that standing rules:

> … are designed to ensure that applicants only litigate their business. For an application to have standing demands a connection between the applicant's interest and the relief sought. As a general rule the Court will not recognise busybodies who interfere in things that do not concern them.

The difficulty, of course, is that public law and many planning decisions, by their very nature, are everybody's business. Standing law rules were developed in the 19th century English courts in the context of private law matters. At that time there were very few public law actions or remedies. They were never designed as a filter or preventive measure so that matters may remain in error for want of the correct person to bring them before a court. All members should remember this when considering the merits of this change.

The only argument that I have heard advanced on this issue is that such a change would mean that too many decisions would be challenged and the planning process unreasonably delayed. Ms Le Couteur has already outlined the most compelling evidence as to why this simply is not the case. Evidence from both the Land and Environment Court and the Supreme Court of New South Wales has found unequivocally that this has not occurred, and their provisions actually go further than ours. The argument has been put that they are a different jurisdiction, so this argument does not apply. With due respect to my colleagues here, that is just a nonsense. Are they seriously suggesting that the people of Canberra are more litigiously minded than those in New South Wales?

The second argument against the change involves the discrete category of litigation that arises where a business operator challenges the validity of an administrative decision which confers an advantage on their competitor. The concern is, of course, that it is unjust to allow a rival to interfere with the other party's rights as determined by the regulator and that we should not be facilitating this type of litigation, especially as this serves a commercial and therefore private rather than public purpose. The Greens agree with this idea.

This amendment will not, in reality, give rise to these concerns. The principal reason is that it does not apply to town centres, where most of these types of cases would apply. Further, this applies to merits review in the ACT and does not affect the common law standing rules or the application of the AD(JR) Act and judicial review, which may well be the focus of the more complicated arguments put in these type of cases.

What the amendment does is remove the requirement of a material detriment. Currently, the tribunal's time is essentially wasted on standing matters when it could be spending that same amount of time deciding the merits of the case. ACAT has given us some guidance on what material detriment actually means, but no doubt many more cases could be heard arguing the finer points of exactly what this concept does and does not include. Why? Surely, we must accept that it would be a better use of time to hear the merits of the case and come out with a decision that may actually aid the future application of the Planning and Development Act and clarify the many concepts that are open to dispute. This would make it easier for people to weigh up whether they ought to challenge or whether they have any prospects of successfully challenging an ACTPLA decision they feel is incorrect.

The meaning of the remaining requirement for an interest in the administrative context is best set out in Justice Brennan's decision in Re McHattan and Collector of Customs (NSW), later cited with approval by the High Court in Allen and Transurban City Link Ltd.

I would like to conclude by returning to the topic of the public interest. These amendments principally address the right of the members of the community to bring matters in the public interest—that is, of no individual benefit beyond what all in the community stand to gain. This may be an environmental benefit or simply improved amenity of our suburbs. There are public concerns with which no private citizen has immediate connection. I refer the Assembly to Australian Law Reform Commission report 78, published in 1996, entitled *Beyond the doorkeeper: standing to sue for public remedies*, which comprehensively covers this issue and recommends, with some conditions, open standing for public law remedies.

I would like to finally make the point that arguably the single most effective measure that has been adopted in Australia to improve the quality of executive decision making has been the availability of merits review and the requirements for statements of reasons. If we are truly interested in improving the quality of executive scrutiny and delivering better outcomes, these amendments should be supported.

MS LE COUTEUR (Molonglo) (10.34), in reply: I thank members for their contributions, and in particular Ms Hunter, who gave a very good exposition of the legal reasoning behind the proposed changes.

I would like to start by reminding members of what my bill is actually trying to do. First, it will ensure that ACTPLA undertakes full public notification with full information available at the onset of all merit and impact track DAs. Second, it allows ACTPLA and ACAT to consider a broader range of issues when reviewing territory decisions such as territory plan zoning objectives as well as territory plan rules. Third, it also increases standing for community members to access merit review of DA decisions. Mr Barr in particular, and Mr Seselja to some extent, created a straw man out of the idea of this bill. The bill is not going to fundamentally change our planning system. The bill intends to improve it. It is an incremental change which, if passed, would improve the planning system. It is not rewriting the planning system from the bottom up.

Since I tabled this bill last December, there have been a number of changes in the planning area. One has been the case of Mr Chris Watson of Latham, who I would like to acknowledge is here today, together with colleagues from Latham and members of the Belconnen Community Council. The other thing I would like to acknowledge is the interest of the community councils in the fate of this planning bill. All six community councils met together and unanimously voted to support this bill. Mr Barr commented that I had not undertaken public consultation. I am not quite sure how—

Mr Barr: With industry.

MS LE COUTEUR: much more public consultation I could have taken than all six community councils. And yes, Mr Barr, I did talk with industry but as you would be aware they were not of the same mind as me on it. But I did talk to them. I also note in this context the current redevelopment proposal for O'Connor shops, which is a very fine example of the possible inconsistency between planning rules and the territory plan objectives.

I asked Mr Barr for some clarification on this issue yesterday and I await his answer with considerable interest, because it is directly relevant to how ACAT will be able to consider an appeal if an appeal actually happens on this. Just turning to Latham, I have been very interested in watching how Mr Watson's case has been handled and assessed throughout the ACTPLA and ACAT processes. It is a case where someone has a very strong interest in his local centre but he did not actually live next door to it. He lived only in the same suburb; so this was not regarded as close enough to suffer material detriment and therefore could not gain standing for a merits review or appeal of an ACAT decision.

The development decision he wished to appeal also relates to the notification section addressed in my bill. I note that no-one is eligible for standing to appeal given they did not put in objections. They did not put in objections because the DA was so badly notified. People did not realise what the DA actually was about.

With notification, both parties somewhat did a straw man here. I would like to read out from my explanatory statement what the requirements would be for notification. What my amendment would do would be to insert a standard so that the validity of the DA will be affected if the failure to comply with notification requirements unfavourably affected public awareness or restricted opportunities to make representations.

Mr Barr suggested that the mere omission of a comma could mean that the notification was invalid. I think that what he has done in that is actually belittle the experience of people where the notification was invalid. Nobody is suggesting a mere comma would be the issue. But in the case of Latham, the DA simply did not include anything about the development. It was merely about the lease purpose change. Is Mr Barr seriously suggesting that this was a reasonable notification?

To answer Mr Seselja's comments about notification and the possible time issues involved with poor notification, I would also point out in terms of notification that the onus is also on the developers, whether they are large or small, to ensure that ACTPLA is correctly notifying the development. If a developer realises that the development has not been properly notified then, of course, they could contact ACTPLA and have it notified so that it is properly rectified. There is no reason that this requirement should mean any more time was required for notification. But as a result of the current laws there is a development going ahead in Latham where we know that some members of the community oppose it.

They were not in a position to make any comments about it or be part of an appeal. Continuing on with Latham, I mention also the human rights component. Given that the notification was not carried out properly, Professor Peta Spender, who is the presidential member of ACAT and who heard the interlocutory application, examined the composite process of this case in February this year. Although ACAT did not have jurisdiction to order a re-notification, she found that:

> … the respondent has the same obligations as the Tribunal under section 40B of the *Human Rights Act* to give proper consideration to a relevant human right and recommends … that it considers its own obligations as a public authority to preserve and foster the rights of potential affected parties under section 21 of the *Human Rights Act* and to make arrangements to renotify the development proposal.

When I raised this matter through questions without notice first with Mr Barr and then Mr Corbell following the ACAT finding, I was disappointed that neither our planning minister nor our minister responsible for human rights was concerned about this loophole in the legislation. It has been suggested to us that there should be a formal process whereby the government should respond to recommendations from ACAT. This does seem like a reasonable proposition which we will continue to follow up with the government.

There has been a lot of discussion here about standing. I must say, as someone who is interested genuinely in planning, that it has been very frustrating to me to find that both the Liberal Party and Labor Party do not want people who have a genuine

interest in planning to be able to make comments or potentially appeal about planning decisions.

There are lots of people who are interested in planning but do not happen to live next-door to the development in question, and I would point out a few things. There already is a provision in the existing ACAT act which we are not planning to change which allows vexatious appeals to be dismissed. This bill is about extending appeal rights to people with legitimate rights.

Mr Barr said something about the fact that this bill would mean there was no time frame for ACAT appeals. In fact, we have no intention of changing the time frame. There is still a time limit of 28 days. Also, this bill does not attempt to change the current restriction on appeals in town centres. I think that really both the Liberal Party and the Labor Party have introduced some sort of straw man, of people who want to just spend their spare time appealing against things for no reason.

As Ms Hunter said, we have no evidence to suggest that the people of the ACT actually want to spend their time or spend their money going to ACAT. As Ms Hunter said, the appeal rights which we are attempting to introduce are already in existence in other states such as New South Wales, Queensland, Tasmania and the Northern Territory and the development industry is still continuing in these places. They are not being held up for years and years in the appeals court.

What we have in the ACT is that ACAT, instead of spending its time looking at matters of substance, must spend some of its time looking at matters of standing. This is just not a good use of ACAT's time. Since I have tabled this bill as part of the amendments to the ACAT act in April, we now have a new law whereby you cannot be joined to a case if you do not have standing in your own right. This clause in the act reads:

> The tribunal must not join a person as a new applicant to an application if the person is not entitled to apply to the tribunal under the authorising law under which the application is made.

I am aware of one case already where a community group, which unfortunately did not have the relevant parts in their association but was genuinely concerned with an application, was not able to join to an appeal.

This is very concerning. There are many instances where it may be appropriate to join parties to a case. There may be a number of people, as is the case in Latham, who are concerned, have the same sort of concerns about a particular development, and they do not all live the right distance from the site. Excluding the people just does not make sense. All this is appearing to try to do is to keep people out of the democratic process.

I will now move on to the community councils' motion. On 18 March this year the combined community councils held a meeting to discuss my planning bill. This was very significant as this is the first time the community councils have all come together for a combined meeting for the last three or four years. The community councils are

very concerned about full notification, reviews and appeal rights as it is a key issue for them, a very time-consuming one.

They spend their time watching developments across their communities to ensure consistency with the shared community vision of the future for their broader neighbourhood and to ensure that they and the people that they represent, their constituents, have a say in it. This is not unreasonable. This is entirely within their purpose as community councils.

The Woden Valley Community Council hosted the combined community council public meetings where all the community councils were represented. There were representatives of the community councils of Belconnen, Gungahlin, north Canberra, Tuggeranong, Weston Creek and Woden Valley. They adopted the following motion:

> We strongly support the provisions of the Bill that inserts in the *Planning and Development Act 2007* a requirement whereby the validity of a development application will be affected if the notification requirements are not met or the full information for a merit or impact track development application has not been provided;
>
> We strongly support the visions in the Bill to broaden the range of the issues to include the overall intent of the Territory Plan that can be considered by ACTPLA when reconsidering its decision on a development application and by ACAT in reviewing a decision by ACTPLA; and
>
> We strongly support the provisions in the Bill to broaden appeal rights.

I also would note that one issue raised at the joint community councils was the suggestion that community groups, where they have the relevant objects in their constitution, be allowed, in fact, to appeal DAs for community facilities in town centres.

It is, I have to say, very disappointing that the government was unable to support my bill today given that Mr Barr himself stated last December:

> My approach to the ACT's planning legislation is that it should be open to periodic review and continuous improvement to ensure it continues to meet the needs of industry and community.

This is what this bill is trying to do. It is trying to review the Planning and Development Act to meet the needs of the community. Given that neither the Liberal Party nor the Labor Party are going to support this bill, I suppose I am pleased Mr Barr said that he plans in the future to introduce legislation to address the notification issue. I actually find it very hard that anybody could feel it was acceptable for notifications to not necessarily have any particular relationship to the actual content of the DA. I find it impossible to believe that either party, Liberal or Labor, could ever regard that as a reasonable situation. Whatever you may feel about the other parts of the bill, that, I would have thought, was totally uncontroversial and fair—very fair.

Mr Barr promised last August to table legislation to phase out inefficient replacement hot-water services by May this year. That has still not been met. Mr Corbell, when he was planning minister, promised in 2003 to introduce guidelines on sustainable building materials. Again, this has not yet been carried out.

So I guess I have a degree of hesitation in feeling confident that this legislation will in fact eventuate. But if Mr Barr does in fact put forward such an amendment to the notification process, can I suggest a few more things he might like to add to it. They are things like improving signage around DAs so that people can better see the DA signs and ensuring that signs are put up and can be seen from all publicly visible locations. In my last second, I will just state that the Greens are standing up for the community here. *(Time expired.)*

Question put:

> That this bill be agreed to in principle.

The Assembly voted—

Ayes 4		Noes 13	
Ms Bresnan	Ms Le Couteur	Mr Barr	Mr Hanson
Ms Hunter	Mr Rattenbury	Ms Burch	Mr Hargreaves
		Mr Coe	Ms Porter
		Mr Corbell	Mr Seselja
		Mr Doszpot	Mr Smyth
		Mrs Dunne	Mr Stanhope
		Ms Gallagher	

Question so resolved in the negative.

Shepherd Centre and Noah's Ark

MR DOSZPOT (Brindabella) (10.53): I move:

> That this Assembly:
>
> (1) notes:
>
> (a) the discontinuation of the Commonwealth Government's Non-Government Centres Support element under the Literacy, Numeracy and Special Learning Needs Program (LNSLN) which will slash funding to the Shepherd Centre and Noah's Ark;
>
> (b) the loss of certainty of funding for the Shepherd Centre and Noah's Ark as a result of the reallocation of funding by the Stanhope Government;
>
> (c) the lack of staff within the Department of Education and Training (DET) who are specialised, trained and certified in developing the spoken language skills of deaf or hearing impaired children between 0-5 years old;

(d) that the Shepherd Centre provides training to DET staff and is a vital organisation skilling parents in helping their children with hearing disabilities develop;

(e) the substantial contributions made by the Shepherd Centre and Noah's Ark to the ACT; and

(f) that ACT communities require the vital and differentiated services provided by both organisations; and

(2) calls on the ACT Government to:

(a) explain why the Minister repeatedly refused to meet with both organisations;

(b) meet with the Shepherd Centre and Noah's Ark to ascertain the viability of service continuation and alternatives, and report back to the Assembly by the last sitting day in June 2010;

(c) consult with parents of children affected by the discontinuation of LNSLN funding to look at viable alternative models to continue provision of these services, and deliver a comprehensive report to the Assembly; and

(d) detail what the Stanhope Government has done to ask the Commonwealth Government to review their decision to discontinue funding.

Last Monday my colleague Jeremy Hanson, the shadow minister for health, and I, in my capacity as shadow disability and education minister, paid a visit to the Shepherd Centre in Rivett. There we had an opportunity to meet with parents and children and the management and staff of the centre. We also had the opportunity to see first hand and learn about the good work that the centre provides to families of children with special learning needs.

It has been brought to our attention that funding for the Shepherd Centre and the special education services at Noah's Ark will cease as of 30 June 2010. Much of this is due to the Rudd government's discontinuation of the literacy, numeracy and special learning needs program—LNSLN—which both organisations qualify for under the non-government centre support category. I should note at this stage that the manager of Noah's Ark, Ms Wendy Addison, is here with us today. Minister Barr, if you do change your mind about meeting with these organisations, I suggest you start to do it with Ms Addison this morning.

With the introduction of the commonwealth government's national education agreement, which focuses on government schools, and not qualifying for non-government commonwealth funding under the Schools Assistance Act 2008, these centres are now facing the prospect of no longer receiving continued funding to run their valuable services to ACT communities.

The government has said that funding that was once used to fund centres like the Shepherd Centre and Noah's Ark will now be redeployed through a tender process to fund identified priority services such as therapy services not currently provided by

ACT government agencies, work experience and social placements, and sexual health and education.

Although there have been scant or no details provided by the government regarding this tender process, both organisations are mindful that the stated service priorities might preclude perhaps one of them from qualifying in such a tender process. In addition, the mooted tender is now months overdue while the loss of funding is only days away. Yet the minister still ignores the plight of the parents and their children, as well as the organisations and the staff of these organisations, the fact that lives are to be severely disrupted through loss of jobs and income, and the effect on the health and the learning and development of these children. But this minister still refuses to discuss these issues with these individuals and communities.

The case to retain the Shepherd Centre and Noah's Ark and the services they provide in the ACT is compelling. They complement the services currently available through Therapy ACT and the Department of Education and Training. They enable parents with children with special learning needs to have an opportunity to choose options that they feel are the best available for their children—children whose special needs require specialist attention.

This motion is about children and their parents. It is about ensuring their continued development and it is about giving the parents the necessary skills to facilitate this development. Take, for example, the Shepherd Centre. Without the requisite funding, families may have no choice but to seek the services of Therapy ACT, services which the minister tells us are available—what the minister is not aware of, or which he chooses not to tell us, is that these services are already way oversubscribed with a long waiting list—or department of education programs, which focus on a "teaching" perspective.

The ACT will lose a source of expertise in spoken language skills in deaf and hearing impaired children aged zero to five years old. Ironically, minister, if you allow this situation to play out to its conclusion, which is only days away, the Department of Education and Training will also lose a source of expertise to train its own staff. This minister still spins his lines without paying the courtesy of meeting with the management of these organisations or the parents of these children. Minister, what are you afraid of? Are you afraid of hearing the truth? These parents and organisations deserve the opportunity to show you the consequences of the decisions that have been taken. They deserve your urgent attention, to see the reason for the requirements for this support, and early intervention mechanisms for these parents in managing their children's hearing loss.

The case for Noah's Ark is equally compelling, and it is also without sufficient funding. As much as the government has led the public to believe that the Shepherd Centre's services are similar to the government's, they are not, as the following examples illustrate. The Shepherd Centre uses a multidisciplinary model involving therapists, audiologists and family support, while Therapy ACT focuses on speech therapy and the department of education uses a teacher of the deaf approach. The Shepherd Centre is family focused, while both Therapy ACT and the department of education are child centred. The Shepherd Centre is staffed with certified and trained

auditory-verbal therapists with ongoing internal mentoring, while the department of education has no ongoing mentoring, with two-day workshops delivered to it by the Shepherd Centre. Therapy ACT has no specialist experience with hearing impairment.

In a 19 May 2010 article in the *Canberra Times*, Mr Darrell Bush, whose three-year-old son Tom is a student at the centre, was quoted as follows:

> I've learnt more through the Shepherd Centre than I do with the Department of Education. The Shepherd Centre teaches families what to do and take it home so it's 24/7 instead of one hour a week … Tom's development would stall if the program was closed. He'll be left behind.

Further in the article the parent also stated that he was angry and frustrated. He said:

> … in the scheme of things I don't think it's a big number for them to come up with.

Minister, looking at your government's record of expenditure, when this government can spend $150,000 on statues for shopping centres and monuments beside our traffic-jammed roadways and $22 million on an arboretum, your prioritisation on the important needs of our community certainly requires scrutiny and serious questioning. No wonder you refuse to meet with the community, minister. In a similar testimonial provided to the Shepherd Centre, Ms Martina Johnson stated:

> Without the Shepherd Centre in Canberra, my 4 year old child would not have been diagnosed with Auditory Neuropathy and would not have been given the opportunity to receive a cochlear implant … Thankfully, the expertise of the Shepherd Centre recognised my child was not progressing at an appropriate rate and recommended further investigations be taken. No other organisation recognised the additional struggle my child was experiencing … As a parent of a child with a disability and special needs in Canberra, I can honestly say the Shepherd Centre provide a vital intervention service.

That is the end of the quote from a Shepherd Centre information sheet. Equally compelling is a letter written to you, minister, by Grant and Marie Williams, the parents of four-year-old Ryan, who is at Noah's Ark:

> There are so many children, through no fault of their own, who need help adjusting to school life. We believe it is imperative for these Children to be helped as early as possible to ensure the best educational outcomes for them. It is also an effective preventative measure that avoids the need for resource intensive measures at a later stage. The 'Shooting Stars' program deserves continued funding. By helping children early before they reach school, programs such as those run by 'Shooting Stars' help children to become cooperative, independent members of their eventual school class.

That is the end of the quote from a letter to you, Mr Barr. The community of parents and the management of both the Shepherd Centre and Noah's Ark have been seeking the attention of this minister to state their concerns to him and to ask him to reconsider the decision to cut funding to the Shepherd Centre and Noah's Ark.

I now seek the support of this Assembly to join me in calling for this government to explain why the minister repeatedly refused to meet with both of these organisations. I call on the Assembly to join me in calling for the minister to meet with the Shepherd Centre and Noah's Ark management to ascertain the viability of service continuation and alternatives and report back to the Assembly by the last sitting day in June 2010. I call on the minister to consult the parents of children affected by the discontinuation of LNSLN funding and to look at viable alternative models to continue provision of these services, and deliver a comprehensive report to the Assembly. I call on the minister to detail what the Stanhope government has done to ask the commonwealth government to review their decision to discontinue this funding. Madam Deputy Speaker, I trust that our colleagues on the crossbench will see fit to support this motion.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation and Minister for Gaming and Racing) (11.05): Since the last private members' day in May some things have certainly changed. The days are colder. The snow season has begun. But some things, it would appear, have not changed. The Liberals' approach to private members' business is still, as it has always been, opposition for opposition's sake.

Opposition members interjecting—

MR BARR: The motion before the Assembly today contains a number of errors and misstatements.

Opposition members interjecting—

MR BARR: Let me begin by informing the Assembly of the background and context for this debate. I hope—

Opposition members interjecting—

MR BARR: It might well be a vain hope, given that we are not even 60 seconds into the speech and already the catcalls are coming from those opposite, but it might assist the Assembly in considering these matters.

The literacy, numeracy and special learning needs, non-government centre support program, the program which previously funded Noah's Ark and the Shepherd Centre, was governed by the quadrennial guidelines 2004-08. I do not think that fact is in dispute.

The ACT Department of Education and Training administered this funding, on behalf of the government, through a grant submission process, according to the commonwealth's guidelines. I also do not think that is a matter of any contention.

The Shepherd Centre received funding from the commonwealth for an early intervention program for children who are hearing impaired with cochlear implants.

Noah's Ark was funded by the commonwealth for two programs: providing support workers for children with a disability aged from birth to three years to participate in Noah's Ark's regular programs, plus an after-school care and holiday program for high school students with a disability.

Both the Shepherd Centre and Noah's Ark were informed in 2007 and in 2008 and in 2009 that this commonwealth funding was supplementary and non-recurrent. They were advised to seek alternative sources of funding if they wished their programs to continue and to be sustainable. In accepting the funding, the Shepherd Centre and Noah's Ark agreed that this was the basis of the funding.

The old commonwealth program, established by the Howard government, ceased at the end of the 2008-09 financial year. Funding to organisations finished at the end of the 2009 calendar year. That was the commonwealth's decision. The commonwealth has moved away from delivering its support to education through a profusion of targeted programs. Instead, the commonwealth is funding states and territories for outcomes articulated in the quadrennial education agreement and the national partnerships for education—again a commonwealth funding decision.

Since the old commonwealth program ceased, the ACT government has worked closely with the Shepherd Centre and with Noah's Ark to assist them in the transition to the new system. And this has included direct financial assistance to ensure that the organisations have the opportunity to apply for funding in the coming tender process. It has included many meetings and much direct advice.

The Shepherd Centre was informed in December 2009, and in a meeting in February this year, that the funding model would be changing in the coming financial year. My department provided the Shepherd Centre with $55,000 in transition assistance for the first six months of 2010 so that they would have the opportunity to identify further funding sources if they could.

Similarly, Noah's Ark was informed in December 2009, and at a meeting in January 2010, that the funding model would be changing in the coming financial year. My department provided Noah's Ark with $15,000 in transitional assistance to enable the after-school program to continue until 30 June this year.

Now, the Department of Education and Training is calling a tender for therapy services, and the Shepherd Centre and Noah's Ark will be open to apply to provide services under this tender. Current grant recipients will be alerted by email on the first working day following the public advertisement of this tender process.

That is the background and context for this debate. In short, the commonwealth ceased funding the Shepherd Centre and Noah's Ark. The ACT government stepped in to provide transitional assistance. A tender process is about to begin and the Shepherd Centre and Noah's Ark will be able to apply.

So that is the background; but what about the future? In the context of the future, it would be nice to think that the Assembly would keep in mind the big picture. There is little benefit to the public from the Assembly debating funding of two

non-government organisations in isolation from the wider policy developments that are at stake here.

The new education agreement and the national partnerships gave the ACT government and the Canberra community a new opportunity. We had the chance to set our own priorities for how we make the best use of additional funding to ensure that we can complement services already provided by the public sector, like those in schools, with services provided by the non-government sector.

Confronted with this opportunity, our decision was to listen. The government has undertaken comprehensive consultation in the ACT to determine the priorities for the provision of services for children and young people with disabilities and their families.

As members of the Assembly would be aware, the government commissioned the review of special education in ACT schools. The review, known as the Shaddock review, undertook extensive consultation with schools, parents and the broader community to determine the needs of students in ACT schools.

In 2009 the government released a strategy to support people with a disability, *Future directions: towards challenge 2014*. And this was off the back of further extensive consultation with the disability community, including service providers.

These two documents, based on the most comprehensive consultation with the broader community and specifically with the disability community in the ACT, including service providers, provided clear directions for how this government needs to provide for children and young people with a disability in Canberra.

As a result of these extensive consultations and expert evidence into disability education, the Department of Education and Training have identified three priorities for partnering with non-government centre organisations to support children and young people with a disability in our community.

These three priorities are structured work experience and social placement opportunities for students in years 9 and 10; and therapies in support of individual learning plan goals that are not currently provided by the ACT departments of education and training or disability, housing and community services. Individual learning plans are developed for all children from diagnosis to the end of schooling who access ACT Department of Education and Training disability education services. This includes children under the age of four. These services will be designed to build capacity in schools and systematically improve community agencies that assist with curriculum goals. The third priority is sexual health education for young people with a disability. This is an area identified of specific expertise and knowledge that is not currently available in schools.

The government listened to the community and identified these priorities. Now we have an obligation to deliver—and that is what we are doing. To deliver on the community's priorities—helping students in years 9 and 10 get ready for work and life, supporting individual learning plans and teaching about sexual health—the Department of Education and Training is asking non-government service providers to tender for therapy.

A tender process is open, transparent and competitive. It rewards innovation and new ideas and it takes the politics out of funding decisions. Any organisation whose services align to the government's priorities identified by the comprehensive consultation is free to tender. The tender will be for two years, with a third year as an option. This will overcome the uncertainty of annual grant applications and provide non-government organisations with the capacity to develop their programs in the long term.

The fact is that, while the commonwealth's targeted program has been discontinued, funding is still available to support non-government organisations providing programs for children and young people with a disability. In fact, the ACT government spends more on disability education today than ever before. From 2001 to 2010, funding for disability education has increased by around 60 per cent, from less than $30 million under the Liberals to $46.7 million today.

But not every service is guaranteed funding forever and I am determined to listen to the entire community and to deliver the priorities the whole community has identified—helping students in years 9 and 10 get ready for work and life, supporting individual learning plans and teaching sexual health.

Mr Doszpot's motion makes a number of other statements which are not entirely correct. I have not repeatedly refused to meet with organisations. Each organisation has sought a meeting with me. And in each case the officials working directly on the funding, and members of my staff, have met with the organisation, and in my opinion, with a forthcoming tender process in train, that is more appropriate. I think it should remain at arm's length from ministers.

I know yesterday the Liberal Party were determined to turn the Legislative Assembly into a selection committee and it seems today they are determined to turn the Legislative Assembly into a diary meeting. I think the people of Canberra would be better served by a chamber of serious policy debate.

The motion states that the Department of Education and Training lack staff to support children and young people who are deaf or hearing impaired and their families. The department has 16 specialist teaching positions for the provision of programs to support children from the time of their diagnosis to the end of schooling. With up-to-date methods for early testing for hearing impairment, these services can commence shortly after birth.

The Department of Education and Training also provides a range of early intervention programs across the ACT. In 2010 there are 39 programs, including playgroups that cater for children from two to six years of age who have or are at risk of developmental delay or disability. These programs cater for 322 children at any one time. Children from the age of three with higher and more complex needs can also access early childhood programs in special schools. These programs cater for 78 students. In addition, Therapy ACT provides speech pathology programs for children and young people with hearing impairment. These services are highly valued by ACT families.

A debate like this one today is the bread and butter of ACT government and politics. The way parties deal with this debate tells us a lot about their real political identity. What we see today from the Liberals is oppose, oppose, oppose—a party of constant opposition, at risk of becoming a party of permanent opposition.

The reforms to the commonwealth-territory funding, growth in both funding and demand, wider community priorities and the balance between public and non-government provision are the issues that we are grappling with today. The government's approach is practical and progressive. We have been given an opportunity by the commonwealth to deliver on our priorities in disability education funding.

We have consulted widely with the community through the Shaddock review. We have listened to the community's priorities, helping students in years 9 and 10 get ready for work and life, supporting individual learning plans and teaching about sexual health. These are the areas where the non-government sector can make the greatest difference because these are the areas where the public sector needs the most help. We are opening a tender to allow non-government organisations to deliver therapy services for the community's priorities.

Changing priorities is not always easy and not every service can be guaranteed funding forever. But there is more funding than ever before in disability education and we are listening to the community and delivering on their priorities.

It is interesting that in the context of the media coverage of this particular issue I have received correspondence, as I understand other members have, including Mr Doszpot, in relation to the programs that are provided by the department. David Lovell and Rachel Tyson wrote to you, Mr Doszpot, also to Mr Seselja and Mr Hanson, outlining their support for the programs that are offered by the ACT government and expressing their concern that the articles and the media coverage had the potential to give decision makers an unrepresentative and unbalanced appreciation of the department's services. *(Time expired.)*

MS HUNTER (Ginninderra-Parliamentary Convenor, ACT Greens) (11.20): I thank Mr Doszpot for bringing this motion forward today. The two not-for-profit community organisations, that is, Noah's Ark and the Shepherd Centre, provide very important services in the ACT, particularly for children with disabilities.

The Shepherd Centre seeks to enable children who are deaf and hearing impaired, from birth to five years of age, to develop spoken language so that they may fully participate in the hearing world and in so doing reach their full potential. They assist children to learn to listen and speak with hearing aids or cochlear implants and provide elementary verbal therapy support, audiology, family support services, integration playgroups and education for the family on hearing issues. The aim is that children will enter their local mainstream schools in a fully integrated environment. This goal is achieved for over 90 per cent of children at the centre.

The Shepherd Centre has five centres operating across New South Wales and the ACT and has assisted over 1,500 families since it was established. I understand that it is

assisting 20 families in the ACT at the moment. Demand for their support services is currently growing at 30 per cent per year. The Shepherd Centre is 25 per cent government funded and finds the remaining 75 per cent needed to maintain its services from fundraising.

Noah's Ark has been providing services for families and children with disabilities for over 37 years and has over 650 enrolments in its programs and over 1,000 member families. They provide educational and social opportunities for children, provide early intervention support for parents and help families through the transition to formal schooling. Noah's Ark states it is the only non-government early intervention service that offers one-on-one support to enable children with disabilities to participate in mainstream programs prior to formal schooling.

Their programs complement a wide range of therapy treatment and interventions available to these children. They also provide resources for families, including physical aids, modified equipment, communication aids and other educational support resources.

Both organisations are now facing a funding crisis due to the health funding at the commonwealth level under the previous scheme ceasing. In the past the commonwealth government provided this funding which, in the case of the Shepherd Centre, represented up to 50 per cent of the operating costs. This funding, which was not recurrent, was administered on behalf of the commonwealth government by state and territory governments. With the introduction of the new education agreement with the states and territories, this targeted funding program ceased.

Minister Barr, through his department, has provided grant funding, as he has told us, of $55,000 for the Shepherd Centre until 30 June this year because parts of the centre's funding ceased in December 2009. The Shepherd Centre has requested funding from Mr Barr for a period of six months until December this year while they try to resolve the long-term funding issues. At this stage, without funding, they may have to close in September of this year.

Noah's Ark were advised in December 2009 that funding which they had received for the last eight years under the commonwealth non-government centre support scheme would cease on 30 June 2010 and that the ACT government would be undertaking a tender process to identify future providers of these services. Funding is due to cease next week and the tender process has yet to be announced. I will come back to that in a moment.

Noah's Ark has little confidence that their services will actually even fit into the tendering criteria when it is announced. Their view is that the focus will be on the school-based support, which I think has, in some ways, been confirmed by the minister this morning, rather than those early intervention services before school.

While new arrangements are being put in place, Noah's Ark, as we understand it, has pursued alternative funding options while it negotiates with the ACT government to obtain support for parts of its programs. They need to find out what ACT government department will be responsible for the special needs early intervention services they provide and how they will get the sort of funding needed to maintain the program.

It appears both of these organisations are in great danger of closing or restricting their services unless they have some certainty of funding into the future. There may be alternatives or better ways to deliver these services but longstanding organisations like the Shepherd Centre and Noah's Ark need to be included in conversations on how the services they provide to their students and families can be maintained. As I understand it, the level of funding involved is not significant. It is approximately $125,000 per year for the Shepherd Centre and $107,000 per year for Noah's Ark.

In supporting Mr Doszpot's motion, the ACT Greens are asking the ACT government to meet or continue to meet with both organisations and assist them, if needed, to transition to any new arrangements that are applicable under any revised funding arrangements. The government needs to move quickly to complete the tender process and consider how best to maintain existing services until that process is finalised.

I note on 15 March this year Minister Barr wrote to Anthea Green, the chief executive officer of the Shepherd Centre, stating:

> The department is currently developing a proposal around the provision of funding in the 2010-2011 financial year for non-government organisations providing programs for children and young people with a disability. Future funding will be aligned with the ACT Government policy and strategic requirements.

Again I note that the minister has touched on some of those issues this morning. It goes on to say:

> The department will inform current recipients of targeted funding of the new arrangements as soon as the proposal is finalised.

As of last night, that is, three months after the letter was sent and one week before the end of the financial year, the Shepherd Centre has not been informed of new funding arrangements or any tender processes; so it can only conclude that the provision of funding in the 2010-11 financial year—that whole tender, the specifications, the tender process and so forth—has just not been finalised, although, as I note, this has obviously been going on over several months. And that is a question to the government as to why, when they have known that they are heading in this direction, when they knew that they were only giving six months funding to two organisations and had explained that they were moving to some new arrangements, that they had particular focus, it has taken this long to put together those tender documents. I also do not understand why these organisations have not been informed of some sort of timetable about when those tender documents will be released.

From my understanding of the procurement guidelines and procurement process, it is not a breach of that process of those guidelines to be informing organisations or the public about a timetable of when tendering processes will take place. Obviously, there are other things that would breach the guidelines but that is not one of them. So I am quite unclear why these organisations have simply not been told what the timetable is. And I think there is a need to explain what is the hold-up here.

I would like to go to a few things in Mr Doszpot's motion and I would say that, in relation to (2)(b), which I do support—which is to meet with the Shepherd Centre and Noah's Ark to ascertain the viability of service continuation alternatives, reporting back to the Assembly by the last sitting day in June 2010—I would put in a note of caution that it is only a week or so away. I do understand the argument that the tender process and so forth obviously have been worked on for some significant time; so you would think that there would be something there to report. I guess I would understand if the whole process had not been completed but I do take your point that there should be some considerable work done.

Looking down the motion, I think it is important that parents of children affected by the discontinuation of this federal-commonwealth funding be included in conversations, be included in discussions, along with the organisations they have been provided services by, to look at models for the future. In tender processes not everybody is a winner but I certainly think the organisations who have been delivering services over a considerable time also need to be part of the conversations that go on around what works, what does not work and how everybody can fit into the landscape to ensure seamless service delivery to families.

I suppose linked-up service delivery is incredibly important, particularly for families that find that they do have a baby who has got some sort of disability—in this case, hearing impairment or deafness. They do want to do the best by their child and when they find a service provider—such as the Shepherd Centre that provides them with the right support or Noah's Ark with the one-on-one support that really matches with their family, that supports their child and gives their child the best support available in those early years of life to ensure, hopefully, the best success of being able to speak, to be able to move into mainstream schools and so forth—we need to ensure that these organisations are respected, that they are valued and that they are part of conversations around what the future of service provision in this town should look like.

I do take the point that there does need to be good connection between non-government service delivery and school service delivery as well. That makes a lot of sense but, as I said, we should not take our non-government organisations for granted. They are incredibly important partners in the delivery of services to many families and they need to be a key in those conversations in looking at what the future of service delivery, funding and viability of these organisations are all about.

As I said, the ACT Greens will be supporting the motion and we call on the ACT government to bear in mind the needs of the students and families using the services of these organisations and ensure that they are not overly affected by new arrangements. And by that, I am talking about that transition.

As I said, I have been out there in the community sector for many years and tendered for many projects and it is important, particularly for these 20 or so families that at the moment are receiving support from the Shepherd Centre, if there are changed arrangements in the future, that we make sure that those families are properly supported in any transitional arrangements that go on. That is critical. We cannot

leave those families hanging without that support and that follow-up being provided. I believe that that is essential if we are to do the right thing by these families in the ACT.

Once again, I thank Mr Doszpot for bringing forward the motion today and the ACT Greens will be supporting this motion.

MR HANSON (Molonglo) (11.32): I thank Mr Doszpot and I commend him for bringing forward this important motion. I note his continuing interest in and advocacy for people with disabilities here in the ACT and for community groups who are helping them. I would also like to thank Ms Hunter for her words and her support of Mr Doszpot's motion. Between them, Mr Doszpot and Ms Hunter have outlined well the situation and also the role and the tasks of both organisations, and I thank them for that.

What is clear about what is happening is that, as of 30 June, both organisations are going to fall off the edge of the cliff. Because the minister has failed to synchronise the tendering process with the interim funding, the consequences for both organisations are dire. Essentially, as of 30 June, which is about a week away, two very important community organisations who are supporting young families and people with disabilities in this community are going to fall off the edge of a cliff. That is a terrible thing for the staff, it is a terrible thing for the parents, and, most importantly, it is a terrible thing for those young children.

I welcome Wendy Addison from Noah's Ark to the chamber; I thank her for coming here today. My focus today, though, will be on the Shepherd Centre, because I visited them earlier this week. But I am sure the sorts of things that I will say about the Shepherd Centre could equally apply to Noah's Ark. I do look forward to visiting Noah's Ark at some time in the future—hopefully in the new financial year—when they have received some form of assurance or funding from this government.

Mr Doszpot and I visited the centre on Monday, and what we saw touched us both quite profoundly: dedicated parents doing their very best for their children in remarkably difficult circumstances. We spoke to numerous parents and we spoke to staff. Each of the parents had a different story, but each of them was consistent in their praise for what they got out of the Shepherd Centre and what it meant for their children and their praise for the staff.

I spoke to the parents of a young child who had become deaf after contracting meningitis. Just imagine the effect on the parents. I spoke to the parents of a young boy who had been born seven weeks premature and was deaf. I spoke to the mother of twins; one of the boys was profoundly deaf—he had a cochlear implant—while the other boy had no hearing impairment at all. It was a joy to see them going about interacting with other children and staff at the Shepherd Centre. I spoke to the mother of a young girl who was born without any functioning ears. In fact, she had small nodules where her ears should be and she was profoundly deaf. I spoke to the parents of a young boy who had serious hearing problems, and this was compounded by other disabilities that he also has.

I spoke to the parents and I spoke to the staff and I learned about cochlear implants, or bionic ears, and found out how important they are and what an impact they have had on the lives of young children. But a cochlear implant is not something that is simply implanted in your ear and then you can hear; you must learn how to hear. It is a different process, and you have then got to learn how to speak. It is not as simple as hearing as you and I know it; it is a very different sound that comes in which has then got to be interpreted by the young child.

The parents told me of the shock and confusion they felt when they were informed by doctors that their children were deaf. If you put yourself in their shoes and you were being told by a doctor that your child is deaf, you might appreciate the confusion, the shock, the horror and the desperation. All of the parents told me that, after they had got over their initial shock, after they had struggled to find a way through the situation they found themselves in, the Shepherd Centre played a very vital role in their lives in providing advice, in providing stability and providing what they need to help their young children.

However, despite the terrible adversity that I saw at the Shepherd Centre, what I heard about the experiences of the young children and the parents were actually stories of hope and of success. The success of the Shepherd Centre comes in two parts: one is the focus on training parents. The focus is that the parents are trained in how to train their children, and it is actually the parents who graduate from the program, because they are the ones who need to train their children. What this ensures is that the children get ongoing training, 24 hours a day or whenever the parents are there rather than just during a limited visit to the centre.

It is a great approach; it is embraced by the parents. I had the privilege of watching one of the staff provide that lesson in a booth with the two parents and the child doing that training together. You could see the staff member showing the parents how to interact with the child and how to teach that young child how to communicate, how to speak, how to listen and how to work and function as a young child despite a hearing impairment.

The second part of its success focuses on early intervention. It is by teaching parents and children early in the child's life that the child then is allowed to flourish. What it means is that, rather than the child becoming someone who is characterised as someone with a disability and going throughout life with a hearing impairment, by intervening early you make sure that that child can progress and flourish with similar children of their own age—their peers. Most of the children who go through the Shepherd Centre move on to preschool, they move on to school, and they can work as effective members of this community, as productive children, as part of a normal, mainstream school. That is what we should be focusing on in our health system. It is the rhetoric we hear all the time, and this is an example of an organisation that is putting that rhetoric into practice here in the ACT.

In addition to the benefit to the individual is the cost-benefit. By addressing the situation early, by allowing that child to access mainstream schooling and lessen their dependency on disability services, that is a cost saving. I do not know what the

quantum of that would be, but there is no question that what the Shepherd Centre is doing, in purely fiscal terms, is saving the ACT money, both in the education department and also in disability.

Mr Doszpot has outlined the financial problems, as did Ms Hunter. I am disappointed to hear that Mr Barr has not taken the time to actually visit either Noah's Ark or the Shepherd Centre. I am reasonably sure that if Mr Barr had seen what I saw on Monday he would have some clarity about this. He would know that he needs to act right now to make sure that these two organisations do not fall off the edge of the cliff and that they have the funding they need to take them through to the proper process. I hope that process means in the longer term that they get the funding that they need, because they are both doing fantastic work in our community. At least Mr Barr has got to address this ridiculous situation where they fall off the edge of a cliff.

It seems that Mr Barr is too interested in making time for media events. We have seen the number of times that Mr Barr appears in the *Canberra Times* or other media with his media advisers, smiling for the cameras, at all sorts of events. The people at the Shepherd Centre and Noah's Ark would have seen that as well, and they would rightly question why it is that Mr Barr can take time for those sorts of media events but he cannot make the time to meet these two most important community organisations.

So while Andrew Barr is out to his media events, while Katy Gallagher is sipping wine in the south of France, while Simon Corbell is counting his monergy, while Jon Stanhope is opening public art, and while Joy Burch is an accident of politics, simply warming a frontbench job until someone slightly more stable than John Hargreaves or more competent than Mary Porter is elected, what are they doing for this community?

Collectively, what I see from those opposite is a bunch of uncaring, self-serving incompetent second-rate hacks. If you think I am angry, I am. If you had been out to the Shepherd Centre, if Andrew Barr had been out to the Shepherd Centre, if others had, they would know that we should be angry that this situation has been allowed to occur here in the ACT. Young children with disabilities are about to fall off the edge of a cliff because this minister is either too arrogant or too lazy or too obsessed with his own media appointments to go and visit these two community organisations.

The priorities of this government are wrong. If this government cannot afford the money to support these two organisations, while they can spend in the order of $50 million on an arboretum—that is the total budget that we have seen so far from the arboretum—when it is spending $2.5 million a year on public art, when it is putting up statues of prime ministers—*(Time expired.)*

MS BURCH (Brindabella—Minister for Disability, Housing and Community Services, Minister for Children and Young People, Minister for Ageing, Minister for Multicultural Affairs and Minister for Women) (11.43): The ACT government provides a wide range of supports for people with disability in the ACT, including children. Until 2009 the Australian government provided funding to states and territories under a four-year arrangement for the provision of the non-government centre support program. This program supported the delivery by community sector

providers of educational programs for children and young people with a disability. Noah's Ark and the Shepherd Centre received non-recurrent funding through the ACT Department of Education and Training under this program.

With the introduction of the new education agreement, the Australian government has ceased funding to this program. Whilst acknowledging the impact that this will have on certain services offered by these centres, I challenge the assumption of Mr Doszpot's motion that this is due to reallocation of funding by this government. Let us be quite clear, this issue has come about due to the cessation of funding by the commonwealth and not as a result of reallocation of funds by this government.

The Shepherd Centre is a not-for-profit charity that has been in existence for 40 years, with its head office based in Darlington, New South Wales. The Canberra-based centre is at Rivett, and the centre teaches hearing-impaired children to listen and speak, with the aim being to integrate them into mainstream schools. The program offered by the Shepherd Centre is an intensive auditory verbal program in one-to-one intervention and weekly playgroup sessions. An auditory verbal approach is based on teaching hearing-impaired children speech as opposed to sign language and is the preferred option for some families.

An official from my department first met with the Shepherd Centre in March to discuss the funding for the Shepherd Centre. At this time, the CEO provided an overview of the centre and explained why some of the program's funding was at risk. In May of this year the department advised the Shepherd Centre that the early intervention education program was not one that would be prioritised under the national disability agreement. The focus of the agreement is on support, accommodation, community access, community support and respite, not education.

The Shepherd Centre was advised that Disability ACT would consider program funding for programs that provided family support or respite effect and that the centre was invited to provide a more detailed request to the department. The Shepherd Centre has yet to respond to this offer.

The ACT government provides substantial services to children and young people with hearing disability through the Department of Disability, Housing and Community Services. Therapy ACT provides early intervention programs to children up to the age of eight years who have a hearing impairment. Children and families accessing the Shepherd Centre are also eligible to access Therapy ACT services and would be given a high priority category. Therapy ACT programs are not the same auditory verbal programs, however they have an effective speech pathology program.

Currently, there are approximately six children who access both the Shepherd Centre and Therapy ACT. The ACT government has provided additional funding for speech pathologists and additional clients who would be able to be catered for within a reasonable period of time. The ACT government, through Disability ACT, provides an annual grant to the Canberra Deaf Children's Association to fund information and support to families. Funding is also provided to the ACT Deafness Resource Centre to provide information, referral, communication and advocacy services across the ACT Deaf Community.

A bit more detail on funding for the ACT Deaf Community: the Canberra Deaf Children's Association receives an annual grant for the provision of information and support to families. The ACT Deafness Resource Centre receives $182,000 per annum with the provision of information, referral, communication and systemic advocacy services across the ACT deaf community.

Disability ACT is currently in negotiation with the ACT Deaf Board for the management of interpreter services in the ACT. Therapy ACT provides early intervention programs to children up to the years of eight who have a hearing impairment, and this includes free assessment and intervention to assist clients to develop the skills to maximise their participation in the community.

Clients work with other therapists, carers and teachers and speech pathology services. Social workers also assist therapy clients deal with diagnosis and plan a positive future. Therapy ACT also provides drop-in clinics located in Belconnen, Tuggeranong, Gungahlin and Holder for parents and children.

Noah's Ark is a not-for-profit community-based organisation that provides services to families with young children with a focus on children with additional needs. In addition to the ACT toy library, Noah's Ark provides a long-day care service for families. The Department of Disability, Housing and Community Services through the Office for Children, Youth and Family Support provides funding to assist in the provision of the resource centre and toy library to assist families to access developmentally appropriate resources and information.

The Noah's Ark long-day care centre and playschools are able to access support for children with additional needs through the inclusion support agencies managed by Communities@Work. Noah's Ark also provides an after-school and school holiday program for children with disabilities aged 12 to 18, and this latter service was funded through the Australian government's non-government centre support program.

I note that the Noah's Ark CEO is here and would no doubt recognise the effort and the work of DHCS in working with Noah's Ark. As a program of respite effect, Disability ACT has committed new funding to Noah's Ark in 2010-11 to support the after-school care services for a number of children with a disability who access the program. Disability ACT will work with Noah's Ark over the next 12 months to develop a business model for ongoing service provision under this program.

The ACT government is aware of the impacts that the changed financial circumstances of the Shepherd Centre and Noah's Ark are having on families and children that access these services. Our focus is on supporting children receiving services, whether through government or our non-government partners. The ACT government is working and will continue to work with these organisations to respond to these changes brought about by the cessation of the Australian government funding.

MR SMYTH (Brindabella) (11.50): The minister for disability either just misled the Assembly or misled the estimates committee. She calls Mr Doszpot to task for citing the loss of certainty of funding as a result of the reallocation of funding by the

Stanhope government and says that it did not happen. Indeed, the minister was asked that question. It is a question on notice in the estimates hearing. Mr Doszpot asked in the third part of his question:

> Has funding that would be used to support the Shepherd Centre been allocated to other initiatives?

The answer is yes. So clearly it has been reallocated, according to the answer. But according to the minister, no, it has not because it was federal money. There is a question that has to be answered there. Has this money been reallocated or have you misled the Assembly, minister? That is a very serious mislead if indeed the minister has stood here and, in a bald-faced manner, said there was no reallocation, when, according to her own answer just a couple of weeks ago, yes, it has occurred.

The government has stood here, through Mr Barr, and said: "We are going through a process. There is going to be a tender and we are going to tender for services like work experience and social placements, sexual health and education." Madam Deputy Speaker, I ask you: how many three-year-old kids with a hearing impairment are going to benefit from each being educated about sexual health, or how many three-year-old kids with a hearing impairment actually go out for work experience?

Mr Barr: Why do you not mention the third part of the tender, Brendan? Why have you just excluded from that list the specific reference?

MR SMYTH: This is the problem. This is the problem with Mr Barr's approach. He stands up here with his petty, belligerent attitude because he is caught out.

Mr Barr: You have just excluded the specific reference to individual learning plans and you have just been caught out for the malicious misrepresenter that you are.

MR SMYTH: I am just reading the answer. I am just commenting on your words, minister. The two ministers need to get together. The problem is that the minister is not interested. There are no media events. There are no good press releases in cutting services and shutting services to disabled kids. That is the problem here. There is no good news for Andrew Barr to be out there, spruiking how well he is doing. This is why he does not meet with these people. This is why he will not talk to the families. He will not talk to the organisations because (1) he does not have the courage to do so and explain the reason for this, and (2) there is not a logical reason for, firstly, the decision that has been undertaken and, secondly, the process that the minister has embarked upon.

The problem here is that yes, the organisations were told earlier this year they needed to seek alternative funding. That is what they have been doing. They were told that a tender would be put out. And that is what they have been waiting for. Yet this funding finishes next week. This funding will finish mid next week. As was said on ABC radio this morning, this funding runs out on 30 June—this is for Noah's Ark—meaning that they will have to cancel the program altogether.

It is well and good to have a tender but let us look at the reality of what cancelling that program means. If there are no funds then there will be no staff. And the minister

needs to explain to the 13 children with disabilities, in this case at Noah's Ark, how that helps them, how waiting for a tender helps them. Often department of education tenders, of course, are aligned with the calendar year.

We would certainly give Minister Barr leave to stand up and actually tell us when this tender will be out. I am not sure we trust anything Ms Burch would tell us, given her experience with tenders. She has not been very successful in getting them out and getting them out there in the time frames that were required. But if Minister Barr wants to actually stand up so that the parents of the children from the Shepherd Centre, the parents of the children from Noah's Ark and the staff that provide those programs can have some certainty in their life, we would give him leave to tell us when the tenders will be notified, when they will close and when the decisions will be made.

It is well and good to tell these organisations, the families that they look after and the children that they care for and assist that there is a need to find alternative funding and that the tender will be out. But if there is an enormous gap between the cessation of these programs and the opening of the tender then that is of no good to anyone. And you actually have to ask: what is the agenda of the minister in running this in this manner? It is a very uncaring approach and it is a very silly approach, because damage is done. And there is damage done whenever these services are withdrawn or delayed or not fully implemented in that zero to five period. There is damage done, and we are damaging the future of young Canberrans.

Conversely, what we actually do is throw a greater burden, a greater funding burden, back on the people of the ACT long term, because if we do not ameliorate the impact of deafness early on, if we do damage to these kids between now and whenever the tender goes out, if they are not ready to participate fully when they get to school, if they are not given the opportunities that kids without a disability are given, there are impacts on them, their social development, their educational development. There are impacts on their families.

But the burden will often come back to the ACT because we all know that every dollar you spend in the zero to five range—and there are so many reports on this—in early intervention and education of young people has a six-fold effect. If you want to fix it up, you would probably spend 18 to 20 times that amount to make up for the damage; so it is actually bad economics. It is a really poor allocation of resources to deny these kids this money now and not to put in place interim arrangements until we make sure all of these services are covered and all of these services are provided.

But let us go back to the human face. Let us go back to the impact on the families. And I can see why Mr Barr and Ms Burch have not been out to the Shepherd Centre and have not been out to Noah's Ark. They do not want to see the human face. They do not want to understand the impact or explain to the mothers and the fathers of young kids with either a hearing impairment or severe disability why this funding will not go ahead, probably because they cannot. There is not a logical reason for this gap, given that the minister has known about this for so long. The minister did not tell them, because he does not meet with people.

It is an interesting thing that a minister, in all of his portfolios, does not meet with people. We heard ACTSport does not see the minister. We heard the AEU say they cannot see the minster. We hear now that the Shepherd Centre cannot.

Mr Barr: I met with ACTSport last week.

MR SMYTH: Last week, there you go.

Mr Barr: I am meeting the AEU next week.

Mr Hanson: You are a little responsive to criticism in the media, aren't you?

MR SMYTH: He seems to be very responsive to criticism.

Mr Barr: I met with the principals association last week as well.

MR SMYTH: He met with the principals last week as well. Isn't that good?

Mr Barr: I meet with them four times a year and the P&C, yes.

MR SMYTH: Suddenly he went to meetings. It is raised in estimates and suddenly the minister responds.

Mr Hanson: Why won't you meet with Noah's Ark then?

Mr Barr: I am very disappointed. You all went very quiet after that, didn't you?

MADAM DEPUTY SPEAKER: Mr Barr and Mr Hanson!

MR SMYTH: Quite clearly, the minister is embarrassed into having meetings. Hopefully, today we will embarrass the minister into having more. The problem here is that the minister is not doing his job. Yesterday we had Mr Hargreaves say that three members of the committee of estimates were actually parliamentarians because they were doing the job and were politicians.

Mr Hanson: Show me the tender.

Mr Barr: Certainly the intention to tender is there, yes.

MADAM DEPUTY SPEAKER: Mr Hanson and Mr Barr, will you stop having a conversation across the chamber, please.

MR SMYTH: But my response to that is that we are elected to serve the needs of the people of the ACT. And the problem for the people whose kids are looked after, whose children are looked after either at the Shepherd Centre or Noah's Ark, is that they are being ignored by this government. They have been abandoned by this government. I think the minister needs to take the motion seriously. I think the minister needs to meet very quickly with these two groups in particular and report back before we start the budget debate next week as to the outcome and what arrangements he will put in place to ameliorate this impact.

We have already had Ms Burch discredited. She got up here and said Mr Doszpot's motion is wrong; yet she has provided a written answer. And one can only assume

that you signed the answer, Ms Burch, and you read the answer. You do read answers before you send them back to the Assembly, I take it? Maybe you do not. Maybe you do not understand your portfolio and Mr Hanson is right. You are just warming the seat until somebody better than Mr Hargreaves or perhaps you, Madam Deputy Speaker, can be found to fill that slot.

But clearly the minister is not across her brief. We have a clear answer that says the money was reallocated. If the money has been reallocated, why do you not just put it back? Amend your budget. We know from most of the ministers the internal budgets have not been allocated. Let us see this money replaced. Let us see a little bit of sanity. How about an outbreak of sanity and common sense here, in the Assembly, in the government, where clearly the majority of members are in favour of some action being taken to support the Shepherd Centre and Noah's Ark? How about we just have an announcement from the ministers that they will fix this problem? *(Time expired.)*

MR DOSZPOT (Brindabella) (12.00), in reply: The minister's response to my motion is incredible. He talks about opposition for opposition's sake. I say: "No, minister. It is not opposition for opposition's sake. It is the opposition doing the work of the opposition, which is to keep you accountable, to scrutinise the government and its decisions. It is to keep the government accountable." That is what we are doing, Mr Barr. We are working on behalf of the people whom you refuse to listen to. We are working on behalf of the community—a community that you, minister, seem to have abandoned.

The minister's response to my motion is incredible in many other ways. He is totally out of touch with the community. He is developing incredible form with a growing reputation for not meeting with the community or fulfilling his portfolio responsibilities. During the estimates process we had group after group telling us the same: "We cannot meet with this minister." It seems that if there are no cameras or journalists around then there is no Andrew Barr to be found. Minister, it is time to wake up to your responsibilities. You are not the minister for media. You have a responsibility to the community as well.

Mr Barr: You are very sensitive about that, aren't you, Steve?

MR DOSZPOT: You are the one that is sensitive. Mr Barr keeps referring to—

Mr Barr: You have remarkable sensitivity about that. Employ a decent media adviser and you might get in the media. Have something interesting to say, Steve, and you might get in the media.

MR SPEAKER: Order! Thank you, Mr Barr. We will not have commentary on people's staff in the chamber.

MR DOSZPOT: That is one of the most illuminating things that you have said in this Assembly, minister. I am not looking for a good media adviser to get my picture in the papers. I am here to represent—

MR SPEAKER: Mr Doszpot, do not continue the topic. Let us just go back to the speech, thank you.

Mr Barr: Have something interesting to say, Steve.

MR SPEAKER: Mr Barr!

MR DOSZPOT: I am here to represent my community. I am here to represent the community, Minister Barr.

Mr Barr: Stand for something and you might find—

Mr Smyth: He can't ignore your warning, Mr Speaker. He just ignores you.

Mr Hanson: What do you stand for?

MR SPEAKER: Order! Let us continue with the speech, Mr Doszpot.

Mr Hanson: Closing down disability services in the community—is that what you stand for?

MR SPEAKER: Order! Mr Doszpot has the floor.

Mr Hanson: Is that what you stand for?

MR SPEAKER: Mr Hanson, thank you.

MR DOSZPOT: Thank you, Mr Speaker. I do not think the totally out-of-touch nature of this minister, his perception of his job, let alone his application to his job, can go without comment. He kept referring to a tender. This has been mooted for months but, as far as I am aware, there is still no tender. There is still no definite date for this much vaunted tender, nor is there any guarantee that either or both of these organisations that we have been discussing this morning, the Shepherd Centre and Noah's Ark, will meet the criteria to be able, in fact, to respond to the tender.

Let me turn to Ms Burch and her comments regarding my motion this morning. Again, Ms Burch, you will need to clarify what you have said. You have said that funding used to support the Shepherd Centre has been allocated to other initiatives, which you denied a few minutes ago. Yet in answer to a question on notice you said, "Yes, from 2010-11 the funding will be used for services for students with a disability provided by non-government organisations that are aligned to current ACT government priorities." We have an issue with not only the minister for education but also the minister for disability about their lack of consultation, their lack of talking to each other about the support that should be given to organisations that the community wants and needs. It is time they started looking at the needs of the community.

I would like to thank Ms Hunter and the Greens for their support of this motion. I note Ms Hunter's comments regarding the time frame, but we are in a fairly interesting bind here. After these sittings we go into a lengthy winter break and we need decisions now. We need this minister to make decisions. As you, Ms Hunter, have stated, this is not a great deal of money in comparison with the sort of money that the

government have found for their pet purposes—the statues, the arboretum and those areas where their interests seems to lie to a far greater degree.

I thank all contributors to the debate on the motion this morning. I think, certainly from the Greens' point of view and from the Liberal side, that we have covered it adequately. All we have heard from the government—the minister for education and the minister for disability—basically are notions that they have about what we are doing. We are not opposing for opposition's sake. We are making you accountable. So far you have shown that you do not recognise the responsibilities that you have towards our community. I think we have covered the details enough and all that remains is for this motion to be agreed to.

Motion agreed to.

Education Amendment Bill 2008

Debate resumed from 24 March 2010, on motion by **Ms Hunter**:

> That this bill be agreed to in principle.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation and Minister for Gaming and Racing) (12.07), by leave: The government will be supporting this bill in principle. The bill represents a workable political compromise on the difficult issue of school closure. The Assembly has grappled with this issue numerous times over the past 20 years. Coalition and alliance governments have fallen apart over this issue. Difficult decisions have been postponed year after year and, until 2006, hard decisions were avoided.

Today's debate provides closure on this matter. It provides an opportunity for me to explain once again how our reforms have improved public education in the territory. If we go back to 2006, the territory had around 170 government schools and preschools. Enrolments in ACT public schools had fallen seven percentage points from the period 2000-01 until 2006 and were in continual decline at a rate of around one percentage point per year.

Across the public school system, the system was under capacity by more than 30 per cent. There were nearly 18,000 empty desks across our school system. At the same time as enrolments had fallen, education costs and expenditure increased by over 30 per cent from that 2000-01 financial year. Whilst we had seen massive drops in enrolments in some schools, most particularly in the older suburbs where the demographics had changed considerably, other schools and other regions in parts of the city were experiencing very high demand—for example, in Gungahlin.

That is not an unusual pattern of development in newly emerging areas. There is a peak of demand for education services and then, over time, that demand tails off. Many of the schools were facing challenges with ageing infrastructure and, combined with declining enrolments and changing demographics in the area, they simply could not be sustained. Without reform, our public education system would have continued to struggle.

Given that background, the ACT government accepted the challenge to renew public education. The Towards 2020: renewing our schools strategy was designed to deliver a public education system that was responsive to the needs of the community. The focus was squarely on education. Of course, the school system and schools exist for students—not the other way around.

An extensive consultation process was held over six months, and I am pleased to see that that remains a feature of this proposed amendment. More than 700 meetings occurred with school communities over that period—all with a view, though, to go back to that overarching issue about how we could improve the system for all students. An important principle in designing an education system is that it meets the needs of all students.

In putting together the proposal, the government took into consideration educational, social, economic and geographical issues. We looked at the provision of a range of options for families in making educational decisions for their children. We looked at the need to maintain and develop further excellence within the public school system. We looked to establish better curriculum pathways from preschool to year 12. We looked to introduce a new focus on early childhood education—I am pleased to see Mr Smyth endorsing that, finally—infant schooling, middle schooling and senior schooling and, most importantly, we wanted to ensure that each and every one of our schools, the vast majority of which were constructed more than 30 or 40 years ago, was appropriate for education through to 2020.

We looked at a range of social factors. We looked at the fact that the ACT population was ageing and that meant that in many suburbs educational and community needs were changing. We looked at the fact that parents were often driving their children past several local schools and dropping them off at schools closer to where they worked or where they studied. We looked at financial impacts and the situation for school infrastructure. We looked at the fact that the ACT education system cost ACT taxpayers, on average, 20 per cent more than other states and territories, and that we had a number of small schools where the cost of educating a student was significantly above even that high territory average. We looked at the demographics in each region down to an individual suburban level. We looked at where schools were located and the proximity of those schools to alternative education provision.

This occurred in 2006. Since then, our schools have flourished. After a decade of decline, public school enrolments have finally turned around. The trend line is pointing in the right direction. Reforms that impacted on five per cent of the student population have assisted 100 per cent of students in public education. Without these reforms, all students would not have benefited. These were hard decisions, but they were then backed by investment.

Towards 2020 contained many strategic and complementary reform initiatives. These included: a system-wide professional development initiative to improve teacher quality; introducing a 21st century curriculum framework; focusing on school standards; stronger support for students with a disability; extensive renewal of infrastructure and major capital upgrades in existing schools; nation-leading ICT

upgrades, including fibre optic cabling to all public schools; increased access to quality preschool education; highly innovative, best practice early childhood schools; and enhanced assistance to students with special learning social needs and those from lower socioeconomic backgrounds.

This work continues. Since the 2008 election, the government has been busy delivering on teacher quality, better classrooms, smaller class sizes, reduced student to teacher ratios and new ways to teach and learn. We have negotiated a new enterprise bargaining agreement and performance review periods to enhance teacher professional development.

This year's budget contains funding for the ACT Teacher Quality Institute and we have begun establishing the new accomplished teacher and leading teacher classifications. We are delivering over half a billion dollars worth of capital works, supported, although in a minority status, interestingly—when compared with other states and territories, the level of territory government funding for the school capital works upgrades dwarfs the building the education revolution funding. I think we would be the only jurisdiction in Australia where that is the case.

That combined funding injection from the territory government and the federal government has led to the establishment of new libraries, halls, gymnasiums, performing arts centres and new classroom facilities. New schools are being built where they are needed most, where there is emerging pressure on school places. In particular, we are building Gungahlin college and Harrison high school and expanding Red Hill primary school. We are designing the Molonglo, Bonner and Franklin early childhood schools. We have recruited 70 extra teachers. I am pleased to say that today, for the first time, average class sizes in ACT public primary schools are below 21.

Another way to think of this achievement is to look at student to teacher ratios. There is a nationally consistent measure that is reported on every year. The Productivity Commission reports on government services. It is a very transparent way to assess the benchmark of how the ACT is performing. In ACT public primary schools, there is now one teacher for every 14 students. That, I think, is second only to the Northern Territory, and there are particular circumstances that relate to the NT. We are delivering new ways to teach and learn. We have 10 ACT schools trialling the national curriculum. Virtual learning environments and a $7.5 million investment in new technology are being rolled out across the territory schools.

This is a strong record of achievement off the back of difficult reforms in 2006. The ACT now sets the benchmark in this country for investment in education. But there is a very firm rule of policy that underpins all of this reform, Mr Speaker, and it is simply this: no investment without reform. Without the reforms of 2006, none of this could have been delivered.

The government support this bill in principle. There are some detailed amendments that we will go through shortly that go to cover off all of the issues that we believe should be considered and, in fact, are broadly consistent with what occurred in 2006. To the extent that within this amendment bill they are explicitly stated, that would probably aid any future education minister who has to embark on such a process. In

my view, the change that occurred in 2006 happens once in a lifetime. It was a result of a range of factors—the appalling planning of this city prior to self-government and the political failure of the Legislative Assembly to grapple with these issues over 20 years. As I indicated at the beginning of these remarks, a number of governments fell over on this issue. Tackling any serious structural reform has proved, until 2006, beyond the capacity of the Legislative Assembly.

I think that one of the strengths of Ms Hunter's bill today—and I think the success of the negotiation process around what should be included in the content—is that it provides a degree of political protection in that more than one political party will sign up to this process. Consultations conducted by an independent panel clearly will relieve the minister of the day from having to go through the particular processes that occurred in 2006.

Undoubtedly, there will be mixed views on that. I will be interested to hear the views of the Liberal opposition in relation to that. They have a particular view, it would seem, about ministerial accountability and ministers attending every single meeting with every single organisation. It will be interesting to see what their views are in relation to an independent panel conducting the consultation process. I acknowledge the detailed work of my office and Ms Hunter's office in achieving what I think is a useful compromise. It is a very workable political compromise on what is a difficult issue.

Today's debate ought to provide closure on this matter. Education policy should be about the future. We hope that the politics of education can now be about the future as well. I would not anticipate any education minister ever again having to grapple with the issues that I confronted in 2006. The major structural reform has now occurred, but there is no doubt that at some point in the future—certainly not in this term of the Assembly but at some point in the future—a school may need to close. To the extent that this will provide an agreed political process for that to occur and that other parties will have signed up to it will no doubt provide some degree of comfort for the education minister of the day. There is an agreed process that can be gone through. I am not naive enough to think that all of the politics would go out of such a decision, but it would at least enable some of that to sit within an agreed process that other parties have signed up to. That would make the inevitable process at some point in the future of an adjustment—it would probably be only one school at a time rather than a significant structural reform as occurred in 2006—occur smoothly, or as smoothly as possible.

There are elements of Ms Hunter's amendment bill that I believe are very backward looking in terms of trying to address issues that might have been prevalent in 2006 but certainly will not be in future, but there are a significant number of elements that are forward focused—focused on the challenges that will confront the education system into the future. I commend Ms Hunter and her office for the way in which these issues have been able to be discussed freely and frankly. I believe ultimately that we will have a workable way forward for this issue to be resolved if it ever does arise for future education ministers.

MR DOSZPOT (Brindabella) (12.20): We stand here today to debate a proposed amendment bill, protean with emotions, history and context. In fact, everyone in this

chamber knows what I am referring to. Yet, as we debate Ms Hunter's proposed Education Amendment Bill, we need to reflect on what has led us to this moment, at this time, and why, in order to respectfully consider the communities affected by the minister's school closures in 2006. That year, the school closures began with the discontinuation of three preschools, in McKellar, Rivett and the Causeway, and seven primary schools, in Flynn, Hall, Melrose, Mount Neighbour, Rivett, Tharwa and Weston Creek.

By the end of 2007, preschools in Cook, Macarthur and Page were closed, along with the primary schools of Cook and Village Creek. It was also the year we saw the closure of Kambah high school. This was followed by the closure of preschools and primary schools in Higgins and Holt in 2008. In total, 20 schools were shut down and 15 communities and neighbourhoods left without schools.

It is now 2010 and, although it is easy for those not affected by the slash and burn of our neighbourhood schools or those who instigated it to downplay what happened, we are reminded, as the minister splashes out millions of tax dollars on new infrastructure projects and feeds his gimmicky PR forays, that this money could have been better spent—better spent to save our schools.

In fact, in the Chief Minister's Department's citizen-centred governance summary report, it was noted that consultations in past school closures did not meet expectations. The *School closures and reform of the ACT education system 2006* report, of which committee Ms Bresnan served as chair, lists the following reasons:

> consultation sometimes seemed to be conducted to satisfy the process …
>
> there was no real intention to take the community's opinion into consideration in decision making;
>
> there was a lack of feedback;
>
> there was sometimes no acknowledgement of contributions;
>
> the Government's response was not satisfactory; and
>
> there is a need to be assured that community views have been taken into consideration.

Speaking to a parent of the Flynn community shortly after I became a member of this Assembly, I recall this mother's attempts at trying to convey to me her feelings of being ill prepared for the outcome; a sense of panic in having to find another school for her child in only a week; a feeling of hopelessness in not knowing what to do, and the logistical difficulties in no longer having a neighbourhood school.

Lest we apathetically forget, this is what we are really here to debate. Will Ms Hunter's proposed bill assure future school communities fair consideration, process and due diligence?

I recall clearly on 10 December 2008 a media release by the Greens entitled "Thinking Long Term to Save Our Schools". The release promised:

> "This Bill will address issues in the act, to make sure that the sham consultation of 2006 can not be repeated,"

The release also stated:

> "One of the greatest frustrations of the 2006 process was Government, with their minds already made up, heading out to listen to concerns, only to ignore them.

For the proposed bill we are about to debate today, an ABC news article quoted Ms Hunter as saying that the plan was not to stop the government shutting schools but to make the process more rigorous.

We in the Liberal Party feel strongly about this. However, where Ms Hunter only wants a rigorous process, the Liberal Party wants a process that ensures that school closures should only happen if necessary, after proper and considered community consultations.

As elected officials, all of us here have a fiduciary responsibility to the people of this proud territory. We owe them not just a duty of care but a standard of care. In a recent discussion with a respected stakeholder, he poignantly stated that, on the issue of school closures, no more political capital was to be had. He is right. It is time for solutions and not political jousts and point scoring. Hence, in our deliberations on whether we would support this initiative, it was important to ask sincerely whether this proposed bill, to put it in Ms Hunter's words, will prevent "sham consultations" like those that happened in 2006.

On a process note, we are concerned that the time frame given to consider the amended bill is so short and amendments have been occurring, with the latest draft provided to us on 21 June 2010. We have considered this draft in relation to an initial draft dated 4 June 2010 and have found several superficially minor changes but which may have essential implications for the consultation process.

Furthermore, in comparing these versions to a draft dated 23 March 2010, which was provided to us yesterday by someone other than a member of the Greens, we note that an appeals clause has been removed from the June 2010 drafts. This is of concern to us, and the reason for it needs to be properly considered, especially within the context of a six-month consultation time frame.

This is not the forum to delve into the technicalities of this proposed bill. However, in addition to what has already been mentioned, here is a brief cross-section of our concerns. There are no requirements obliging the minister to consider or have regard to the findings of the consultation and independent report. The proposed bill does not say that the minister must wait 12 months before closing a school; it merely stipulates that he/she needs to wait at least 12 months to give notice of a decision. Does that mean the minister can still close a school before telling communities why? The proposed bill does not stipulate when a minister can announce school closures. Does that mean that the minister can announce closing a school a week before the end of the school year, as happened in 2006? Are the steps provided in the proposed bill

intended to be chronological? When along this process is the minister "considering" to close a school and when is he or she "proposing" to close a school? And, again, why has an appeals process been removed?

ACT Labor's record on school closures, and now Minister Barr's support backing the Greens' amendment, confirms and highlights that our territory is managed by a confederacy of hypocrisy. The very government that has decimated the community through the never-before-seen savage school closures is now in partnership with the third-party insurance that promised to stop this ever happening again.

This proposed bill promises more consultation but it is also laying the path for more sham. At best, it will be business as usual, and the communities of this city deserve better than what they are getting. At worst, this is a political ambush, engineered to pull the wool over our eyes.

To date, the Greens' record on the issue of school closures has been deficient. They failed to reopen schools, even though the findings of the Standing Committee on Education, Training and Youth Affairs had proven otherwise. They consented to the government's recommendation to adjourn debate of their own bill in March 2010, after waiting since 2008 to bring it forward. And, oddly given their commitment to the community issues, they adjourned my motion to open up discussion on the Flynn school reopening in October 2009. I would have accepted the government doing that, but I found it very hard to understand how the Greens could shut down discussions on something so much required.

There is a logical inconsistency at work here that we find unpalatable. If the Greens are in favour of an education amendment bill, then, in light of sufficient evidence through the committee hearings on school closures, we would have been championing the same causes and supporting the same communities. Since 2006, the Canberra Liberals have not wavered in our commitment to schools and their importance in local communities. We have fought for the reopening of schools and stood by the communities that sought our support.

With regard to this amendment, we will work hard to ensure that ACT communities get a fair shake when it comes to saving their schools. We know that we can do better than what is being proposed and this is why the opposition will oppose this amendment. We feel there is more that can be done with the Education Amendment Bill, and in its proposed form it is rendered ineffectual. As such, the Canberra Liberals will propose their own education amendment bill.

Debate interrupted in accordance with standing order 74 and the resumption of the debate made an order of the day for a later hour.

Sitting suspended from 12.31 to 2 pm.

Questions without notice

Canberra Hospital—alleged bullying

MR SESELJA: My question is to the Minister for Health. Minister, what is the status of the bullying review into the obstetrics department of the Canberra Hospital recently undertaken and specifically what is the time line for completion of the review?

MS GALLAGHER: My understanding is that I may well receive the clinical review next week, and my intention would be to release that as soon as I can.

MR SPEAKER: Supplementary, Mr Seselja?

MR SESELJA: Given that she did not go anywhere near the actual question: minister, who will make the decision on what elements of the review into workplace bullying are released to the public?

MS GALLAGHER: Mr Seselja misunderstands, I think, that there are two reviews, one going into the clinical standards of the care that is offered, which is very much a review that will be released fully, in its entirety. Some of the issues around workforce culture, as I understand it—I have not seen the draft—do form part of that review. All of that will be released. In relation to the public interest disclosure review, as members would be aware, I am not able to be briefed on that review. My understanding is that it is not complete. It will be a matter for the delegate—I imagine the chief executive of ACT Health—and potentially lawyers representing various parties who may determine what elements of that can be made public, if any at all.

Planning—skate park

MS HUNTER: This is a question to the Minister for Territory and Municipal Services. Minister, in a press release dated 3 June 2010 you announced a $4.2 million investment into a new skate park near Eastern Valley Way inlet and upgrades to the foreshore. Minister, how will this redevelopment and infrastructure project include children and young people in the planning process?

MR STANHOPE: I thank Ms Hunter for the question. Ms Hunter, as you are aware, the project is a joint project between the commonwealth government and the ACT government. The ACT government had given some indication of its support for this proposal through our current budget, the budget to be debated next week, by the inclusion in that budget of funds for a feasibility and design study of an upgrade to the Belconnen skate park. The Belconnen skate park is the oldest, as I understand it, of the ACT skate parks. I am advised by skating enthusiasts that it is very old, that parts of it are not fit for purpose and that it represents a park that was constructed for a technology that essentially is not part and parcel of modern day skating. Some of these aspects are beyond my personal ken and knowledge, but I am advised of these things.

It was in that particular context that the government in this budget had provided for design and feasibility. The commonwealth, through its local government grants fund, a fund which was extended just last week by another $100 million to $1.1 billion, supported funding of this particular program. In the context of that we have sought to match it. It is anticipated—to answer your question, Ms Hunter—that the design aspects of the Woden skate park, funded by the commonwealth and the territory under exactly the same funding arrangement and the same fund, were consulted on quite extensively by Territory and Municipal Services with the broader skating community in the ACT.

There has been significant consultation with younger people in Canberra, most particularly through the skating constituency. I would expect that that particular process will inform decisions taken at Belconnen. But it is a different location. I have had it explained to me that we cannot simply transport the design from Woden to Belconnen because of the topography, because of the location. There will certainly be a further round of targeted consultation, broader community consultation, in relation to the design of the skate park.

I can assure you, Ms Hunter, that there will be appropriate consultation with the specific skate park younger community and with the broader community, accepting that this is a very significant part of the Ginninderra foreshore. The government has been investing heavily in the Lake Ginninderra foreshore in recent years, with just on a $1 million upgrade of the foreshore area running from the skate park towards the Belconnen Arts Centre. Indeed, there is a very significant investment of over $8 million in the arts centre and adjacent to the arts centre, in the inlet between the arts centre and the water police station, an investment of somewhere in the order of $7 million for a very significant upgrade of that particular part of the foreshore, enhancing the foreshore of Lake Ginninderra.

In addition to that, of course, we have invested some hundreds of thousands of dollars in new barbecue and playground facilities. Indeed, when one actually compares the level of investment that we have invested in Lake Ginninderra compared to the Liberals during their six years, I think you will find there was no investment by the Liberal Party in Lake Ginninderra in six long years. *(Time expired.)*

MR SPEAKER: Ms Hunter, a supplementary question?

MS HUNTER: Minister, you just responded that the broader skating community or skaters would be involved in the development. I am wondering whether you could let the Assembly know whether you will also be engaging with the wider youth community who still may want to use parts or have other parts added to that facility, such as there was at Woden with the half basketball court, and how this commitment to children being consulted fits in with your deleting consideration of children being put into safe school routes from our motion last month on active transport.

Mr Hargreaves: On a point of order, Mr Speaker, before the minister responds, could I ask for your ruling on whether or not this is a reflection on a vote of the Assembly in a previous debate. If not, I am happy for it to proceed. But it just looked like it.

MR SPEAKER: Mr Hargreaves, I do not think that Ms Hunter is reflecting on a previous vote. I think she did have an excessively long preamble but your point of order is not upheld.

MR STANHOPE: Ms Hunter, I would simply make the point that the government consulted extensively on a very recent skate park, a state-of-the-art and perhaps the best and most advanced skate park in Australia now, according to conversations I have had with the skateboard associations representing organisations. I think if you visited it you would understand the quality and the significance of the skate park at Phillip.

The government's intention is to seek to replicate that. That skate park was designed with members of the skateboard associations representing organisations. There was extensive consultation. We will take that consultation into account but we accept that Belconnen is different. Because of the topography, it will be a slightly different skate park requiring different design, and we will reinitiate—and indeed we already have—that engagement with skateboarders in the ACT.

There will be broader consultation. There will be broader consultation, as there always is, through the statutory processes—the need for a development application and the processes which are part and parcel of consultation and engagement with the community. So there will be broader engagement.

Having regard to the nature of this particular investment—at this stage, a $4.2 million investment which we expect to enhance, indeed, by another couple of million dollars because we intend to incorporate a full redevelopment of Emu Inlet in the construction—we intend to do it as a job lot which will involve significant wetlands work and restoration just up the valley from the Emu Inlet that is the location of the skate park.

In the context of associated works, it is a conversation we probably should have in relation to what else might be associated with the skate park. The site is more constrained than Phillip. It is between a site that has just been sold for the establishment of a medical practice to serve Gungahlin and—*(Time expired.)*

MR SPEAKER: Mr Coe, a supplementary question?

MR COE: Thank you, Mr Speaker. Chief Minister, what stage is the Lake Ginninderra foreshore project capital works program up to? How many times has the project been rescoped?

MR STANHOPE: My understanding is that the project is out to tender. I would assume—I think it went to tender almost, I think from memory, six to eight weeks ago.

Mr Coe: You have not spent any money yet?

MR SPEAKER: Mr Coe, you have asked your question.

MR STANHOPE: It has been designed. It is a major project. I would have to check the number but it is an investment somewhere in the order of $7 million, a major upgrade to the amenity of Lake Ginninderra. It is way above anything the Liberal Party ever did for Belconnen. Actually, $7 million is probably the sum total of the Liberal Party's investment in Belconnen in the six years they were in government. I think if we went all round Belconnen we would struggle to find $7 million worth of investment by the Liberal Party in Belconnen over six years.

Here we are investing $7 million in a foreshore upgrade adjacent to the $8 million arts centre which, of course, I had the great pleasure of opening a year or so ago. So there we have it: $7 million cheek by jowl with an $8 million arts centre which runs onto a

$1 million upgrade of the foreshore, which then runs into a $6 million upgrade of Emu Inlet. We are getting up—$8 million, $7 million, $1 million, $6 million and a half a million dollar upgrade in John Knight park—goodness me—

MR SPEAKER: Order, Chief Minister! The question was not about the Liberal Party's track record in Ginninderra.

MR STANHOPE: The question was about investment in infrastructure and it is relevant that this was a $7 million investment in a foreshore amenity upgrade which followed fast on the heels of $8 million in an arts centre, $1 million of foreshore upgrade and $6 million for the Emu Inlet. The Liberal Party cannot match that; they never have and never will.

Mrs Dunne: I do have two points of order. One of them is the fact that the Chief Minister continually abuses standing order 42 and does not address the chair. Sometimes he might be able to hear you when you call him to order if he did in fact address the chair. Secondly, I know that time has now almost run out but Mr Coe asked a specific question and the standing orders require that his answer be directly relevant to the question.

MR SPEAKER: I think the Chief Minister has used up his time.

MS LE COUTEUR: I have a supplementary—

MR SPEAKER: Supplementary question, Ms Le Couteur.

MS LE COUTEUR: Thank you, Mr Speaker. Minister, following on from this, can you explain the ACT government's commitment to developing and implementing policy that includes children and young people in urban planning and design in the ACT?

MR STANHOPE: I certainly can in the context of the skate park, Ms Le Couteur. As I said, the government is engaged extensively in relation to the construction of a specific piece of infrastructure, a skate park, a facility—one would not wish to be ageist or in any way disrespectful of older skateboarders but a facility—that in the broad is designed for younger members of this community. We would welcome, of course, input from the broader community but we have a focused and targeted consultation with younger people in relation to the skate park at Phillip and here.

Ms Le Couteur, the point is—Ms Hunter went to this, and I think we will get to it, and I would have enjoyed it—that the government did, in relation to a motion moved by you in relation to a direction to the government through a motion you moved that young people be involved in an unspecified way in consultation on the construction of busways and freeways in Molonglo. Ms Le Couteur, I believe there is a distinction between consulting with young people on a specified targeted investment such as a skate park and the method and the way in which a government might consult with younger people, children, in the terms of your motion on the construction of a freeway.

That was the point that the government made, and indeed that the Liberal Party made. We did not say that we would not consult, and you have been verballing us on that.

We said we would wish to actually investigate how we might appropriately consult in appropriate circumstances. Ms Le Couteur, I stand by my reservation about how the government appropriately and reasonably consults with children on the construction of a freeway. But I am happy to take advice on it.

ACT Health—alleged bullying

MR HANSON: Mr Speaker, my question is to the Minister for Health. Minister, it has been reported that there have been 19 complaints of bullying in ACT Health so far this year and further claims of systemic bullying in the health system. What action have you taken to investigate these latest claims of bullying across the health system?

MS GALLAGHER: There is a range of ways if people are feeling bullied when they work for ACT Health that they can pursue their complaints. I think I have been through those processes in this place a number of times. There is a range of ways people can make complaints, both within their workplace and also outside of it.

In light of some of the allegations that arose around the obstetric unit several months ago, ACT Health have brought in some workplace psychologists to work across different areas of ACT Health where concerns have been raised around the workforce environment. I can say that any complaint has been taken very seriously. Many of these matters have been handled by the chief executive herself, and reports are being provided through HR directly to her about how complaints and concerns have been managed.

MR SPEAKER: Mr Hanson, a supplementary?

MR HANSON: Thank you, Mr Speaker. Minister, will you, for the scrutiny of the Assembly and the community, release the results of the recent ACT Health staff culture survey, and, if not, why not?

MS GALLAGHER: No, we will not, and we went through this in estimates and gave you all the reasons why. The staff culture survey actually is a very good news story for ACT Health. It shows improvements in a number of—

Mr Hanson: Is that why you're bringing the psychologists in?

MS GALLAGHER: If I could just finish, it is a measure of staff views around the organisation across a whole level of performance indicators. In many of those areas, we have seen dramatic improvements since we started those staff workforce culture surveys. However, when staff fill out those surveys, they do so on the grounds that it is confidential—what they write about themselves, their colleagues, their supervisors will not be released. Also, there are some contractual requirements we have with the organisation that conducts them that will prevent us from releasing them in their entirety.

Those staff workforce culture surveys are not fodder for Mr Hanson to put out yet another inflammatory media release, which is his only intention in wanting to get his hands on them. They are actually a tool being used by an organisation to look at areas

where it needs to improve its performance, target areas where extra needs to happen and to manage that through the organisation. And that is exactly what happens.

MR SPEAKER: Mr Hargreaves, a supplementary?

MR HARGREAVES: Thanks very much, Mr Speaker. In the context of occupational health and safety, minister, were the systemic cases of bullying by the Liberal Party on the staff of this Assembly referred to the Department of Health?

Mrs Dunne: Point of order, Mr Speaker.

MR HARGREAVES: Were the victims of that systemic bullying referred to the Department of Health for succour?

MR SPEAKER: The question is out of order. Mr Seselja, a supplementary question?

Mr Hargreaves: Point of order, Mr Speaker. Could you tell me why that was out of order, please?

Mr Seselja: You are out of order.

MR SPEAKER: Order! Mr Seselja, one moment.

Mr Hargreaves: I am allowed a point of order, Mr Seselja.

MR SPEAKER: Sorry, Mr Hargreaves.

Mr Hargreaves: I beg your indulgence; I just did not get a reason for the ruling being out of order.

MR SPEAKER: I did not think—

Mr Hargreaves: Just because it is dramatic does not mean—

MR SPEAKER: Order, Mr Hargreaves! Resume your seat, thank you.

Mr Hargreaves: Could you please tell me?

MR SPEAKER: Yes. I did not think I needed to spell it out. I thought the question was outside the realm of the original question. Whilst you tried to link it, I think the insinuation around Liberal Party bullying of their own staff is outside the scope of the question.

Mrs Dunne: Mr Speaker, you do not have to give an explanation and he is not entitled to demand one.

Mr Stanhope: Point of order, Mr Speaker. Mr Speaker, Mr Hanson's question related to allegations that are unfounded that you say you took into account in Mr Hargreaves's question. Your reason for not allowing the question was that you do not believe the allegations are founded.

MR SPEAKER: That is not what I said.

Mr Stanhope: Mr Hanson, in his question, referred specifically to allegations in exactly that same way that Mr Hargreaves did. He referred to allegations in relation to bullying and the health system. What is the difference?

MR SPEAKER: I think I have made my position clear.

Mr Hanson: Mr Speaker, on the broader point of order, can I just ask that—

MR SPEAKER: No.

Mr Hanson: This is a broader point. If Mr Hargreaves is going to continue to ask vexatious questions simply for the sake of using up a question to avoid scrutiny of the government, I ask that you address that issue and not take questions without notice from Mr Hargreaves—if he is going to continue to do so.

Mr Hargreaves: Mr Speaker, on the point of order: I asked a question which I wanted an answer to. You ruled it out of order. I have accepted your ruling, and I have accepted that ruling with alacrity. Contrast that with those opposite. I really think you should apply the vexatious ruling to Mr Hanson.

MR SPEAKER: Thank you, members. I will call the questions as I see them. Mr Seselja, a supplementary?

MR SESELJA: Thank you, Mr Speaker. Minister, will you table the advice that you claim makes the review in part commercial in confidence?

MS GALLAGHER: I will certainly see what I can provide back to the Assembly. I also said, and I think I made this comment at estimates, that I am happy to provide in a general sense some feedback from the workforce culture survey that was presented to staff. It is not just about highlights. Why would you do a workforce culture survey if it was about highlights, Mr Seselja? You actually do workforce culture surveys because you want to improve your organisation from the inside.

My concern is that I do not want to create a situation where you guys go out and play a lot of political games and have a lot of political fun about an organisation that is genuinely trying to improve its performance across all areas. I do not trust you. I do not like your motives; I know what they are. I will give you what I can in the spirit of openness and transparency, but in terms of handing over something to you that will excite you from here until Christmas time with a media release you can put out, I am not going to take part in it.

Planning—hot-water heaters

MS LE COUTEUR: My question is to the Minister for Planning and concerns legislation to improve the efficiency of replacement hot-water systems in ACT homes. Minister, on 19 August last year, you told the Assembly:

> In recognition of the environmental imperative … I make the commitment that … the ACT will introduce appropriate legislation for new and replacement water heaters in class 1 buildings by 1 May 2010, to be effective no later than 1 July 2010.

Minister, why did you break this promise to introduce legislation specifically for replacement hot-water heaters, and will you legislate for replacement hot-water heaters to take effect by 1 July this year?

MR BARR: I thank Ms Le Couteur for the question. As I understand the situation, the requisite issues to be addressed can be done through some form of regulation and in relation to a COAG process. I will seek some further clarification from the Planning and Land Authority, but my understanding is that the regulations that Ms Le Couteur refers to were in fact enacted on 3 May. I will double-check as to whether we are talking about the same regulations, but I do understand there was a press release issued as to why something did not happen on 1 May. I understand 1 May was a Saturday and the regulations came into effect on 3 May, which was a Monday. I do recall there being some issues in the media in relation to that.

Let me double-check with the Planning and Land Authority. My understanding is that these matters have been addressed through regulations, but if I am wrong, I will correct the record for the Assembly this afternoon.

MR SPEAKER: Ms Le Couteur, a supplementary question?

MS LE COUTEUR: Just to clarify, Mr Barr, I think that what he announced on 3 May was—

MR SPEAKER: Preamble, Ms Le Couteur.

MS LE COUTEUR: Sorry—it was for new hot-water systems, anyway, on 3 May. Noting that you refused to actually support or amend the Greens' bill to improve the efficiency of hot-water heaters in August last year, will you now commit to a new date to introduce legislation for replacement hot-water heaters?

MR BARR: I will look at the issue and see how it fits within the government's legislative priorities.

MR SPEAKER: A supplementary, Ms Hunter?

MS HUNTER: Minister, given that you have not acted to ensure the use of energy efficient hot-water systems which would save money and reduce greenhouse gas emissions, how are you acting on the environmental imperative in terms of household energy use?

MR BARR: Ms Hunter might be aware that the Building Code of Australia 2010 edition came into effect on 1 May and there are transitional arrangements in place.

MR SPEAKER: Ms Bresnan, a supplementary question?

MS BRESNAN: Minister, is the reason that you have not acted on your promise—

Mr Smyth: Was that swift, or was that creaky? Standard delivery?

Mr Sesleja: That was pretty swift.

Mr Smyth: That was pretty quick, yes. It wasn't creaky.

MR SPEAKER: Thank you, gentlemen.

MS BRESNAN: Thank you. Is the reason that you have not acted on your promise due to your view that "electric water heaters are highly efficient and this plan would see more gas-fired heaters used, which are less energy and less water efficient"?

MR BARR: Depending on the context of the installation and the source of the electricity, if that is coming from a renewable source, in some instances that is correct, which is why I made that statement at the time.

Health—national health agreement

MRS DUNNE: My question is to the Minister for Health. Minister, what is the status of the national health agreement in relation to the ACT since the federal government has now scrapped the national funding authority?

MS GALLAGHER: The agreements the ACT entered into with the commonwealth are in place.

MR SPEAKER: Mrs Dunne, a supplementary?

MRS DUNNE: Thank you, Mr Speaker. Minister, what negotiations have you conducted since handing over nearly 50 per cent of our GST revenue, despite other states having handed over far less?

MS GALLAGHER: What was the beginning of your question? What discussions have I had?

Mrs Dunne: What negotiations have you conducted?

MS GALLAGHER: The negotiations that we are conducting are being done locally at this point in time around putting together our structures to begin the local hospital network and to have that in place as soon as we can. We are consulting with staff around how that is going to work in reality here and discussing with the commonwealth—and this is up to date—the money that has come from the 2009-10 year that will be coming to the territory shortly.

Mr Hanson: When they're in the south of France. I think that's way you do it.

MS GALLAGHER: Mr Hanson continues his very unhealthy interest in my life outside of this place, Mr Speaker. It is very, very unhealthy.

MR SPEAKER: A supplementary, Mr Smyth?

MR SMYTH: Thank you, Mr Speaker. Minister, what was the purpose of signing up to the agreement if Western Australia will receive equivalent funding without surrendering 50 per cent of its GST?

MS GALLAGHER: I am not certain what the current state of negotiations is with WA. But we are not handing over—and this is something that they failed to understand over 44 pages of the *Hansard*. The money is coming to the ACT. The GST that we were going to get, we will still get, and it will go to funding the local hospital network. The money that we currently do not use to fund health out of the GST will go into other areas of government operation. So we have not lost a cent, we have gained a lot of money and we are going to put in place structures and systems that we hope will improve nationally the public healthcare system, not just here in the ACT but around the region and around the country.

MR HARGREAVES: Supplementary, Mr Speaker?

MR SPEAKER: Yes, Mr Hargreaves.

MR HARGREAVES: Thank you very much, Mr Speaker. My supplementary to the minister is: was not this issue about the amount of money that the ACT had supposedly lost in GST litigated in the context of the estimates committee evidence, and was not the position of the Liberal Party debunked at that time?

MS GALLAGHER: I do believe you are correct, Mr Hargreaves.

Mr Hanson: I have a point of order on the question, Mr Speaker.

MR SPEAKER: Stop the clocks, thank you.

Mr Hanson: Again this is a vexatious question. The question that was asked was about the status of the national health agreement since the funding authority was scrapped by the federal government. The original question did not relate to the question that Mr Hargreaves just asked. It is clearly out of order, again.

Mr Hargreaves: On the point of order, Mr Speaker, I was following along from the supplementary asked by Mr Smyth, who talked about the GST in Western Australia.

MR SPEAKER: Yes, the question is in order.

MS GALLAGHER: Mr Hargreaves remains correct: it was discussed at length and the Liberal Party failed to understand it, for their own political purposes.

Capital works—budget

MR HARGREAVES: My question is to the Chief Minister as Minister for Territory and Municipal Services. Minister, the Department of Territory and Municipal

Services has a substantial capital works budget this year. How has the rollout of these works progressed?

MR STANHOPE: I thank Mr Hargreaves for the question. Indeed, I welcome the opportunity to correct some of the nonsense that was spouted yesterday by both the Greens and the Liberals in this place in relation to the infrastructure plan and the extent to which they revealed an appalling lack of understanding of infrastructure and of the operations of the city.

Certainly this year, a record year in relation to investment and infrastructure, all departments are actually performing particularly well and, indeed, the Department of Territory and Municipal Services is no exception. The Department of Territory and Municipal Services, in taking account of new investment in the course of the year, rollovers and works that actually had continued across a number of years, began the year with the prospect of a $245 million spend. This is just on the part of the Department of Territory and Municipal Services.

The fascinating thing about that number, $245 million, is that that constitutes in total, in one department, four years expenditure under the Liberal Party in government. This is just one department. That was for their entire government. That is including health, education, housing and territory and municipal services. In just this year, the Department of Territory and Municipal Services invested in infrastructure in this city the same amount that the Liberal Party managed to invest across the entire ACT over four years.

Opposition members interjecting—

Mr Hargreaves: On a point of order, Mr Speaker, could you please tell those people opposite that speaking loudly does not mean that they can understand things in a different language? If they could keep it sotto voce, they could get their message across. I asked the question. I would like to hear the answer.

MR SPEAKER: Order! Members of the opposition, please keep the level of the interjections to a decent and audible level.

MR STANHOPE: The Liberal Party always do get a little agitated when anybody actually draws attention to their record of non-achievement or underachievement in government. In fact, the embarrassment is heightened by the fact that the Liberal Party's most significant piece of infrastructure in six years of government was the Bruce Stadium fiasco, the upgrade of Bruce Stadium.

Opposition members interjecting—

MR STANHOPE: Here we have the interjections, the screaming, the shouting down, because any conversation around infrastructure leads inexorably back to the Liberal Party's six years of non-action.

The second most significant thing they did in relation to infrastructure in government was to blow up the Canberra Hospital. The third most significant thing they did in

government in relation to infrastructure was to build the futsal slab, which has never been used. This was actually after they painted the grass at the Bruce Stadium green.

Then if you actually look at their other investments, this is the party that in six years of government closed 114 hospital beds. This is the party in government that in six years oversighted the addition of 14 aged care beds across the territory—two-and-a-bit beds a year.

MR SPEAKER: Chief Minister, the question was actually about TAMS delivering infrastructure this year. The question by Mr Hargreaves was specifically about TAMS and the implementation this year.

MR STANHOPE: He has been very interested in the response. He likes the context. But the point is that just in this year we will deliver in excess of $170 million of capital across the board in building this city. If one goes back and compares that $170 million just in this year, repeated year on year over the last few years—*(Time expired.)*

MR SPEAKER: Mr Hargreaves, a supplementary question?

MR HARGREAVES: Thank you, Mr Speaker. Notwithstanding that those opposite may feel this is bad news, minister, how does TAMS's current capital works budget compare with previous years and, perhaps, how does it compare across the board?

MR STANHOPE: Actually, I was just alluding to that in relation to an analysis or comparison with the Liberal Party's—

Mrs Dunne: Mr Speaker, I raise a point of order. Could I seek your guidance in relation to other rulings that have been made? Mr Hargreaves's question was: how does the current appropriation compare to other appropriations? Could you remind the Chief Minister that in answering that question he can only actually talk about his own government? That is what rulings have constantly said in the past—that you cannot go back to others.

MR SPEAKER: Mrs Dunne, I am not aware of that practice. I believe that it is open to the Chief Minister to comment on all previous budgets.

Mrs Dunne: Okay.

MR SPEAKER: I am happy to discuss it further if you can recall earlier situations. Perhaps we can discuss that afterwards, but I am not aware of it at this point.

Mrs Dunne: I will bring it to your attention.

MR STANHOPE: In fact, I did intend to concentrate just on TAMS delivery in the financial year and actually go to the scope and the nature of the investment. It is a scope, nature and intricacy that was completely lost by members of the Greens and the Liberal Party yesterday in the matter of public importance in relation to this issue.

I think it is worth reminding members of the nature of the investment in infrastructure upgrades and investment in infrastructure that just a single department pursues in an average year. I go through just the works completed last year by TAMS: the west Belconnen school access road and amenity improvements, $1.3 million; Fyshwick stormwater augmentation, $3.6 million; stormwater improvements at Weetangera, Deakin and Fyshwick, $3.4 million; improvements to public transport infrastructure on certain routes, $334 million; roads and bridges on Northbourne Avenue and Oakes Estate, $2.3 million; Lakeside Leisure Centre refurbishment, $3.6 million; Canberra Olympic pool, replacement of dome, $1.9 million; Crace Road intersection, $2.4 million; Lanyon Drive—a single-lane road that I think the Liberals built that we had to duplicate—

Mr Hanson: How big is the deficit, Jon?

MR STANHOPE: $4.3 million; predator-free fence at Mulligans Flat, $1.1 million; rehabilitation of Cotter pavement, $2.9 million—

Mr Coe: What about Gungahlin Drive?

MR STANHOPE: Duplication of Athllon Drive—duplicating another road—$2.02 million; bus lanes, $650,000; Cotter Road pavement, $490,000; Acton temporary car park, $1.8 million; Harrison primary school access road, $4.1 million; Moore Street health building upgrade, $3.3 million—

Mr Seselja: How many years has it taken to build—

MR STANHOPE: ACT no waste signage, $500,000; weed eradication program, $260,000. *(Time expired.)*

Opposition members interjecting—

MR SPEAKER: Order, members! Ms Porter has the call. Before she asks her question, I would like to remind members of the opposition that calling questions across the chamber while the Chief Minister speaks is not acceptable. You should wait until the opportunity for supplementary questions comes up. I call Ms Porter.

MS PORTER: Thank you, Mr Speaker. Minister, what other key capital projects have been delivered by TAMS over the years?

MR STANHOPE: With respect to other significant projects, once again I reiterate that if one goes back just to the *Hansard* of yesterday's debate—

Mr Smyth: Go back to no waste by 2010. Tell us about the sign. Is it a big sign?

MR STANHOPE: a one-hour debate participated in by the Greens and the Liberals, and see if you can determine just a skerrick of understanding—

MR SPEAKER: Chief Minister, one moment please. Stop the clocks. I just spoke to members of the opposition. Mr Smyth, you are warned for calling questions across the chamber. I asked you not to do it.

MR STANHOPE: Suffice to say that in the previous response I went through about just half of the capital projects delivered by the Department of Territory and Municipal Services over the last financial year—just half. And I can go on and on in relation to a massive program and a massive investment that is incredibly complex in its make-up and matrix. It is in the context of all the aspects of this city, its operation and the requirements and demands of this community.

The wishy-washy contributions to a debate yesterday in relation to infrastructure showed absolutely no understanding of the nature, the complexity, the extent, the effort and the significant planning inherent in, for instance, just a stormwater management program and the need to think and plan strategically. That really is a matter of great concern to me.

In the context of a six months review or refresh of the infrastructure plan, let me just say that the ACT government invites now the Liberal Party and the Greens to submit, for the purposes of comparison, their longer term, their immediate, their five-year, their 10-year, and in the case of others their 50-year infrastructure plan for the territory, and we will discuss them all together in five months time when we begin the process. But there is the invitation now, and we look forward to your infrastructure reports and priorities as we refresh the planning which we propose.

MR SPEAKER: A supplementary question, Mr Coe?

MR COE: Minister, why does TAMS still not have an asset management plan, given that the last one expired in 2007?

MR STANHOPE: The Department of Territory and Municipal Services has a range of asset management plans across the full range of work for which it is responsible.

Health—national health agreement

MR DOSZPOT: My question is to the Minister for Health. Minister, according to the federal health agreement, the commonwealth will pay for 60 per cent of planned capital. Minister, what exactly does this mean for the ACT?

MS GALLAGHER: As I said at estimates, some of the details of that are yet to be determined in terms of the capital plans that we already have underway. In terms of capital contributions from the commonwealth, a proportion would come from the GST payments, or the GST money that is here, but also in addition over the longer term forward estimates once their additional growth money kicks in.

I should say that our $1 billion plan for health redevelopment, which currently has over $450 million already appropriated, was never planned with the thought that we would get assistance from the commonwealth or, indeed, the New South Wales government. We will be getting assistance from the commonwealth and hopefully we will get assistance from the New South Wales government as well.

MR SPEAKER: Supplementary, Mr Doszpot?

MR DOSZPOT: Minister, if you understand or have access to the appropriate level of detail, why was your government so quick to sign up?

MS GALLAGHER: Again, Mr Doszpot, I do not think you were there at the time, but we did go through this, excruciatingly, at estimates. We signed up because we needed the commonwealth to come to the table and assist in the growth funding for health. If we did not, by about 2035 in the ACT 100 per cent of our budget would be taken up with the Health portfolio, which means there would be no money for education, no money for disability, no money for TAMS—no money for any other aspect of government service delivery.

With the rate that health was growing, which is around 10 per cent every year—and that is not just here in the ACT; it is right across the country—we as states and territories have been lobbying for years for the commonwealth to come and take a reasonable share of the growth costs in health. They have the revenue base from which to meet some of those costs and to take a share of those costs as they increase.

For the first time since I have been health minister, we had a commonwealth government that came and said, "Yes, we will take a share of the growth costs and we will have that uncapped." Previously, the national healthcare agreements—

Mr Hanson: Why have they given it to WA without signing up?

MS GALLAGHER: I cannot answer for WA, Mr Hanson. I am sure you have got a direct bat phone straight to the WA government and I suggest you use it and you ask them. But for the ACT—and I must say that the ACT government's decision making on this was not about whether or not this is good for the WA government—our decision making on this was whether it was right for the ACT and the ACT community. And it is right for the ACT community. Over the longer term, an additional $250 million will come to this territory to meet some of those increases in health costs, and that growth money is uncapped.

MR SPEAKER: Mr Hanson, a supplementary question?

MR HANSON: Minister, what other elements of the deal are subject to working out the detail?

MS GALLAGHER: Quite a lot of them are, but it is not unexpected when you reach high level agreements—COAG is a high level decision-making body—that the detail that underpins them is yet to come. For example, how we establish our local hospital network, the make-up of it, the governance of it, and the arrangements of whether it is a legislative arrangement or not are still issues to be resolved. Those are the kinds of details that will be worked through in a very systematic and coordinated manner.

I see Mr Hanson shaking his head. I do not know why he is shaking his head. It is not that hard to understand. But the implementation phase that we are going through now, decisions are being made, implementation is occurring now, and some of that is subject to final detail and sign-off. I know you have never been in government, Mr Hanson, so you do not understand, but this is the way things are done.

Mr Hanson: You've never been in opposition; you don't understand.

MS GALLAGHER: And I do not ever intend to be in opposition.

Mr Hanson: Are you resigning before the next election?

MS GALLAGHER: If you continue to behave the way you are behaving at the moment, I have got a pretty good chance of never being in opposition. But this is the way details get worked through. Nothing is finally signed off until those final details are in place. But I hope that out of this—I genuinely hope—we have a nationally coordinated health system right across the country where we have our major government as a major player in the funding of that health system in terms of public hospitals. That has not been the case in the past. That is what needs to be welcomed out of this agreement.

MR SPEAKER: A supplementary, Mr Hargreaves?

MR HARGREAVES: Thanks very much, Mr Speaker. In the context of the conversations with the commonwealth, can the minister outline what the impact will be on the ACT as a cross-border regional trauma hospital?

MS GALLAGHER: I thank Mr Hargreaves for the question. We are certainly hoping down the track that we will be able to have a regional local hospital network that will encompass hospitals such as Queanbeyan, Cooma and Yass and maybe down the south coast. We know that that is where a lot of the work that comes to the Canberra Hospital comes from. It makes sense to have a cluster of hospitals, smaller district hospitals, with a regional tertiary referral hospital. In the first instance we have said no to forming our local hospital network along those lines. That really is because we do not want to delay our local hospital network. The details of having a regional local hospital network are quite complex.

Mr Hanson: Take your time.

MS GALLAGHER: Again, I hear Mr Hanson scoffing. I simply put that down to the fact that he does not understand because he has never actually had to do anything difficult in his life or understand difficult concepts. For example, a nurse in Queanbeyan—

Members interjecting—

MR SPEAKER: Order, members!

MS GALLAGHER: There goes that glass jaw again. I get it every time. For example, some of the difficulties presented are around the practical application of jurisdictional boundaries.

Mr Coe interjecting—

MR SPEAKER: Mr Coe!

MS GALLAGHER: The fact is that nurses employed in Queanbeyan are nurses employed by the New South Wales government under different industrial agreements—

Mr Hargreaves interjecting—

MR SPEAKER: Mr Hargreaves!

MS GALLAGHER: than what operates in the ACT. You cannot just go, "Oh well, whatever. Let's just put all that in the mix and have one network." There is more detail to work through.

Health—national health agreement

MR COE: My question is to the Minister for Health. Minister, what is the status of the Calvary negotiations and how will the national health agreement affect the current or proposed Calvary arrangements?

MS GALLAGHER: The current negotiations are current and ongoing.

Mr Hanson: Was that difficult, Katy?

MR SPEAKER: Thank you, Mr Hanson.

MS GALLAGHER: They are difficult negotiations, which is why you are not at the table again. It must be a bit of a pattern here: anything difficult—no Jeremy.

Mr Hanson: The Chief Minister wants me to ring his Chief Police Officer and have direct negotiations on RDT with the Chief Police Officer.

MR SPEAKER: Order! Stop the clocks, thank you. Mr Hanson, you are now warned for throwing questions across the chamber consistently as well.

MS GALLAGHER: The negotiations with the Little Company of Mary are ongoing. In terms of the local hospital network, regardless of the ownership arrangements or the future ownership arrangements for Calvary, under the local hospital network Calvary Public Hospital would form one of the hospitals under that network and would be represented on the governing council. That is the requirement of the agreement; it is something that the Little Company of Mary are comfortable with and something that we are very happy to work towards. In fact, it was the direction we were going anyway. We already have a series of networks in place between those two hospitals. We think we can better delineate the work between those two hospitals, and that will be very much a part of the job of the local hospital network and its chief executive and governing council.

MR SPEAKER: Mr Coe, a supplementary question?

MR COE: Yes, Mr Speaker. Minister, will you delay the Calvary deal until such time as the planned capital element of the national health reform is resolved and made clear to the community?

MS GALLAGHER: No; in fact, the opposite. We are trying to make sure that we can finalise any outcome with Calvary as soon as possible. It is disruptive, I think, for staff to have these negotiations continue for much longer. Little Company of Mary want to see it finalised as soon as possible. In fact, a date I have seen was to have it finalised by November. I do not know if that is achievable.

There is not any reason to delay it around the capital component. We will need to spend the money on Calvary—and we have been spending the money on Calvary with the new intensive care unit just opening up there—regardless of how the capital component of the national health care agreement rolls out.

MR SPEAKER: Supplementary, Mr Hanson?

MR HANSON: Thank you, Mr Speaker. Minister, have you conducted revised modelling on the Calvary purchase on the basis of 60 per cent of capital funding being provided by the commonwealth?

MS GALLAGHER: No, we have not, and it does not alter the fact, because the requirements of the money that we would need to invest in Calvary still make it a very expensive deal for the ACT and a very expensive deal for our bottom line.

MS BRESNAN: A supplementary.

MR SPEAKER: Yes, Ms Bresnan.

MS BRESNAN: Thank you, Mr Speaker. Minister, under the new arrangements with Calvary or Little Company of Mary, will staff at Calvary continue to be employed by the ACT government?

MS GALLAGHER: Yes. That is the bottom line for the government. There are mixed views on that around the negotiating table, but certainly, for us, that is our bottom line.

ACTION bus service—complaints

MS BRESNAN: My question is for the Minister for Transport and is about the customer complaints concerning ACTION. Minister, the Greens recently wrote to you about ACTION's failure to respond to complaints in an appropriate and timely manner, and you replied that new procedures are in place to ensure this no longer occurs. We also passed on complaints about route 10 to Aranda failing to operate as scheduled, and you indicated that you had asked ACTION to ensure that this route operates according to schedule. Minister, what new procedures are in place to ensure customers receive appropriate and timely responses to inquiries, and why were such procedures not in place to begin with?

MR STANHOPE: I thank Ms Bresnan for the question. In the context of the new procedures and issues, I think it best if I take the question on notice, which I am happy to do, and provide a full answer.

MR SPEAKER: Ms Bresnan, a supplementary?

MS BRESNAN: Thank you, Mr Speaker. Minister, does the government collect data on the number of occasions a bus either fails to show up or drives past a stop due to overcrowding, and, if so, is the government willing to provide this data to the Assembly?

MR STANHOPE: I will take the first part of the question on notice, Mr Speaker, and certainly if the data is available I am more than happy to make it available.

MR SPEAKER: A supplementary, Ms Hunter?

MS HUNTER: Yes, Mr Speaker. Minister, where an individual is entirely reliant upon public transport, what support or recourse does the government offer when the failure of a service to even show up causes them to miss appointments or be late for work?

MR STANHOPE: I thank Ms Hunter for the question. Indeed, I do receive representations from time to time—and certainly, of course, from ACTION—in relation to those instances that we are all aware of where, for one reason or another, a scheduled service simply does not operate. I think members would understand in those circumstances that invariably it is not possible to provide forewarning or notice to those that might be waiting for that particular service of its non-operation. It is an enormous frustration. I can understand why people would be frustrated and quite angry. It is of particular concern to me where children are affected by the non-arrival or the non-operation of a particular service.

There is, of course, almost always a legitimate reason for the non-arrival or the non-operation of a service—either a bus or a number of buses broke down and were non-serviceable; drivers, particularly if it was an early scheduled meeting, gave late notice of illness and non-attendance; or there was an inability by ACTION to provide a driver for all services. It does need to be understood and accepted that there will almost invariably, or more often than not, be a very good reason why a service does not operate. But that does not belie the fact that it is an enormous inconvenience and is always to be regretted.

In the context of all of those occasions where representations have been made to me, where I have received letters or complaints, I have to say I have always been impressed by the responsiveness of ACTION in the context of its willingness to acknowledge the failing and its willingness to unreservedly apologise and express regret at the non-arrival of a service. It is an issue, and I am more than happy to pursue those aspects that I cannot respond to today.

MR COE: A supplementary question, Mr Speaker.

MR SPEAKER: Yes, Mr Coe.

MR COE: Chief Minister, what arrangements has ACTION entered into with Deane's Transit Group or other operators to act as a contingency for Friday's strike?

MR STANHOPE: Certainly, as members would be aware, the Transport Workers Union have given an indication over the last couple of days that they propose to pursue industrial action on Friday in pursuance of a position that they have taken in relation to current negotiations around an agreement. That is a matter of enormous regret for the government. I am not participating in the negotiations. I am remaining informed, in the context of both steps and responses.

Certainly, ACTION is looking at all measures that it might appropriately take to ameliorate the disruption that the lack of service or industrial action will cause. In the context of that, that is part and parcel of the negotiations and the response and responsiveness. But at the end of the day, if there are no drivers, if there are no alternatives, I think it is not particularly helpful for me to give a blow-by-blow response to what it is that ACTION may be doing as part and parcel of negotiation or a response to industrial action.

Certainly, Mr Coe, I can give you an assurance that ACTION is actively inquiring. Indeed, I understand that they have inquired about the possibility of services being provided by Deane's, but my advice and understanding is that that is not likely to be particularly likely or possible. But ACTION is pursuing every possible reasonable avenue in seeking to minimise the disruption—most particularly, of course, in urging the TWU to reconsider its position and to return to the table and negotiate appropriate outcomes.

Economy—outlook

MR SMYTH: My question is to the Treasurer. Treasurer, on 13 May this year, following the release of the Chamber of Commerce and Industry's business expectations survey, it was said:

> The ACT's economic future remains precarious.

Treasurer, do you agree with this statement about the nature of the ACT's economy?

MS GALLAGHER: From my understanding of the point the chamber were making, there is concern around the next couple of years, particularly about the intentions of the commonwealth government. I think if you look at our budget and some of the risks we highlight in the budget papers, you will see that, yes, there are risks not only to our budget but potentially to our economy as well.

MR SPEAKER: Mr Smyth, a supplementary question?

MR SMYTH: Thank you, Mr Speaker. Madam Treasurer, the Chief Minister actually made that comment. If you believe that it is precarious, why did you say, in your

budget speech on 4 May 2010, "We expect to maintain the momentum of our local economy"?

Mr Stanhope: The strongest economy in Australia.

Mrs Dunne: So why did you say it was precarious?

MR SPEAKER: Order! The Treasurer has the floor.

Mr Stanhope: I said the budget position remains precarious; the economy is strong.

Mrs Dunne: They didn't proofread that one either.

MR SPEAKER: Order! The Treasurer has the floor.

MS GALLAGHER: I understand what the Chief Minister was saying. The comments I made around seeking to maintain the momentum of the economy are clearly outlined in the budget that we put together. We put together a budget that, whilst it does have a number of deficits across the forward years, keeps allowing for growth in our services and investment in areas where we can support growth in the economy, and that is largely through our capital works program.

I am not sure what you do not understand here. We will do what we can to support growth in the economy, and there are things we can do to support growth in the economy. But there are risks to the economy and risks to our budget over the short term. I think that all economic analysts would agree with that—as far as I have read, anyway.

Children and young people—engagement

MS PORTER: My question is to the Minister for Children and Young People. Minister, could you please inform the Assembly of what the government is doing to engage young people in the ACT?

MS BURCH: As Minister for Children and Young People, I am pleased to inform the Assembly that the government has a strong commitment to engaging children and young people in participation and involvement at both a government and community level. This is in line with the commitments made in the Canberra social plan to invest in children and young people and increase education participation, engagement and achievement of children and young people.

The children and young people of today are the future of our community, and engaging with them and hearing their views is a critical part of planning for the future. We have recognised this by implementing a new five-year policy platform for young people with the launch of the ACT young people's plan. We engage with children in many ways. Most recently, for the children's plan over 850 children, families and professionals who work with children were consulted to find out what they thought would make Canberra a child-friendly city. Of the 850, 725 were responses of children.

The young people's plan was also developed in close consultation with young people, the community and youth services. The ideas and opinions of young people expressed in over 400 surveys and submissions and 10 forums shaped the development of the young people's plan. We know from listening to young people what they value, the issues they are interested in and what concerns them. Five key priority areas were identified: health, wellbeing and support; families and communities; participation and access; transitions and pathways; and environment and sustainability.

Since 2002, the government has regularly engaged with children and young people through the Youth InterACT strategy. The Youth InterACT strategy encourages them to have their say about youth issues in Canberra and to be actively involved in their communities and with government.

The Youth Advisory Council consists of up to 15 young people aged 12 to 25 from diverse backgrounds. The council's role is to provide me with direct advice on matters pertaining to young people. Over the last 12 months the council has held a number of forums and shortly, on 27 July, it will be holding a forum on youth homelessness.

A measure of success of this government's engagement with children and young people is true youth participation, and this government recognises the importance of engaging children and young people. As Minister for Children and Young People, I thank the children and youth of the ACT for their active participation, interest and engagement in the ongoing development of the ACT community.

MR SPEAKER: A supplementary, Ms Porter?

MS PORTER: Minister, you launched the children's plan last Friday. Can you please advise the Assembly on key elements of the plan and how it will benefit young Canberrans?

MS BURCH: I thank Ms Porter for her question. Indeed, last year we started the process of consulting with children, families and the community to ensure the plan remains relevant and current and taking into consideration best practice and the latest research. Last week I launched a revised and updated children's plan based on this work.

Children were at the centre of the launch and are at the centre of the plan. The revised plan identifies six building blocks required to build a child-friendly city. The first building block provides for the opportunity for children to influence decisions about their lives, their communities and to actively participate.

At the launch, we heard some of the children's ideas about what was important to them, such as clean and safe parks to play and walk and keeping connected to family and friends. Children have important things to say, and the plan promotes children's active and ongoing age-appropriate participation in matters that affect their lives.

MR SPEAKER: A supplementary, Mr Doszpot?

MR DOSZPOT: Minister, how can you possibly spin this rhetoric when the young people in the Shepherd Centre and Noah's Ark have been asking for your assistance? Where is the consultation and how will you help young people, as you have just waxed lyrical on?

MS BURCH: This morning I spoke about how the department has had ongoing discussions with the Shepherd Centre and how we discussed with them that the early intervention and education program was not under the national disability agreement. I also spoke this morning and told Mr Doszpot that Disability ACT had advised the Shepherd Centre that they would consider funding for programs that provided family support or respite care. The centre was invited to provide a more detailed request. We are waiting to respond. We are waiting to hear from the Shepherd Centre so that we can respond.

Therapy ACT provides early interventions for children up to eight years where there is a hearing impairment, and we provide a range of services to other organisations in the deaf community.

MR HARGREAVES: A supplementary?

MR SPEAKER: Yes, Mr Hargreaves.

MR HARGREAVES: Thanks, Mr Speaker. Minister, in relation to the work that the government has been doing on linking the children's plan to the young people's plan, can you please provide the Assembly with some more detail on this?

MS BURCH: I thank Mr Hargreaves for his question. The ACT young people's plan 2009-14 has a close alignment with the ACT children's plan, in recognition that the needs and interests of children and young people overlap. This will ensure smoother life transitions and more comprehensive links between government and community. Both plans are overseen by a whole-of-government children and young people's task force. Previously, only the ACT children's plan was overseen by a government committee, and the creation of a task force is seen as a positive and strategic direction to ensure that all government agencies are prioritising children and young people.

The task force oversees the implementation of both plans and provides strategic leadership and coordination and drives the implementation of both the children's and young people's plans. Children and young people have told us that they are concerned about issues such as the environment, safety, the community, health and wellbeing. This emphasises that both children and young people see, hear and feel the same things about our community and the world in which they live.

One of the issues we will address is the area of transitions for those aged 10 to 12. I am pleased to indicate that there are a number of steps already in place, including the youth connections transition program through the Department of Disability, Housing and Community Services, where vulnerable students in primary school are identified and supported in their first three months of high school. So the alignment of the plans is already having a positive impact on children and young people, and will continue to have a positive impact over the next five years.

Mr Stanhope: I ask that all further questions be placed on the notice paper.

Supplementary answers to questions without notice

Planning—development plans

MR BARR: Yesterday in question time Ms Le Couteur asked how ACTPLA would deal with the development application for a development which is inconsistent with the objectives of a zone as described in the territory plan but is an allowable assessable development within that zone.

ACTPLA have advised that the territory plan describes the objectives of a zone. For instance, the zone objectives for the zone CZ4, a local centre zone, are to provide for convenience retailing and other accessible convenience shopping and community and business services to meet the daily needs of local residents; to provide opportunities for business investment and local employment; to ensure the mix of uses is appropriate to this level of commercial hierarchy and enables centres to adapt to change in social and economic circumstances; to maintain and enhance local, residential and environmental amenity through appropriate and sustainable urban design; and to promote the establishment of a cultural and community identity that is representative of and appropriate to the place.

The territory plan lists permissible uses within a zone. I take it, Madam Assistant Speaker, that this is what you meant when you referred to allowable assessable developments. For instance, permissible uses within the CZ4 local centre zone include car park, consolidation, demolition, guest house, indoor entertainment facility, indoor recreation facility, industrial trades, light industry, minor use, parkway and pedestrian plaza, restaurant, recyclable materials collection, service station or shop.

A development application for a lease variation—that is, for an expansion of the uses for a particular lease—is assessed by ACTPLA under section 120 of the act including considering representations received, the suitability of the site and the objectives of the zone.

Madam Assistant Speaker, your question assumed that the only basis for refusing a development application would be that it conflicts with the objectives of the zone and your question assumed that the only conflict could arise if there were indeed conflict between the objectives of a zone and permissible uses in a zone. ACTPLA advised this is not the case. ACTPLA can consider representations received as well as the suitability of the site within the zone when assessing a development application for a lease variation.

Whilst I would seek to avoid commenting on a particular application, I will say that in relation to the matter which I believe you are alluding to—the assessment that ACTPLA is currently undertaking—were such a lease variation to be approved, any change of use that changes the building class or substantial building works would then still require a further development approval. In your supplementary question, Madam Assistant Speaker, you asked how ACTPLA can assess the impact of a lease purpose change proposal when the descriptions are so broad.

ACTPLA advises that zone objectives are necessarily broad. A planning system that attempted to list all possible developments in a zone would be unworkable; so definitions tend to categorise uses. By necessity, policies within a planning system are represented by broad objectives which are then clarified in subordinate policies and guidelines sometimes using examples. I think that we are all familiar with that in the legislative process.

Where an applicant chooses not to restrict the use for which a variation is sought, ACTPLA will consider the full range of uses that could be accommodated and that are likely to have the highest level of impact on, for example, noise, traffic, parking and residential amenity to name but a few. So the variation is assessed as if it will have the most impact possible under the use.

I think this is sensible, Madam Assistant Speaker, because it then provides the maximum protection for residents. In making a decision, ACTPLA may either refuse the application, approve the application or approve the application with restrictions on the use, but this requires a comprehensive assessment and analysis of available information and advice from relevant government agencies.

I hope that clarifies the matter somewhat, Madam Assistant Speaker. I am, of course, happy to provide further information should you require further clarification but I think that does go to address the technical aspects of the question you raised yesterday.

Personal explanation

MS BURCH (Brindabella—Minister for Disability, Housing and Community Services, Minister for Children and Young People, Minister for Ageing, Minister for Multicultural Affairs and Minister for Women): Madam Assistant Speaker, I seek leave to correct the—

Mr Corbell: I am sorry to interrupt, Madam Assistant Speaker, but I raise a point of order. There is far too much audible conversation in the chamber. Could you please ask members to quieten down? I cannot hear the members that are speaking.

MADAM ASSISTANT SPEAKER (Ms Le Couteur): Members, Mr Corbell could be right. Ms Burch, please continue.

MS BURCH: Thank you, Madam Assistant Speaker. I seek leave to correct the record regarding allegations put forward by Mr Smyth and others earlier today that I misled the Assembly in responding to Mr Doszpot's motion. Let me be very clear that I have not misled the Assembly. Mr Smyth, indeed, has misled the Assembly—

MADAM ASSISTANT SPEAKER: Ms Burch, I understand you need to seek leave to make your statement.

MS BURCH: Can I seek leave?

Mr Smyth: Sorry, is this under standing order 46?

MS BURCH: I seek leave under standing order 46.

MADAM ASSISTANT SPEAKER: Is leave granted?

Mr Hargreaves: Yes.

Mr Smyth: Is this under standing order 46?

Mr Corbell: Yes.

MS BURCH: I seek leave under standing order 46.

MADAM ASSISTANT SPEAKER: Is leave granted? Leave is granted. Ms Burch, continue.

Mrs Dunne: Could I take a point of order, Madam Assistant Speaker?

MADAM ASSISTANT SPEAKER: Yes.

Mrs Dunne: If Ms Burch is using standing order 46, she cannot debate the issue. She cannot make allegations against Mr Smyth which were unparliamentary and they need to be withdrawn.

MADAM ASSISTANT SPEAKER: Thank you. Ms Burch, can you continue, bearing that in mind.

Mrs Dunne: No, I have actually asked for it to be withdrawn because she said Mr Smyth misled the Assembly.

MS BURCH: I withdraw.

MADAM ASSISTANT SPEAKER: Thank you.

MS BURCH: But the point here is that I want Mr Smyth and Mr Doszpot to correct the record. They came in here this morning and said that I had misled the Assembly and that I had signed a QON and therefore what I said in my comment contradicted a QON. They said the words, "Don't you read what you sign?" I am calling on them now to produce the QON that I signed and if you cannot produce it then—

MADAM ASSISTANT SPEAKER: Excuse me, Ms Burch, I think you are going beyond the scope of 46. Can you just keep it to matters of a personal nature. I do not think you can talk about other members.

MS BURCH: Okay, thank you for that clarity, Madam Assistant Speaker. I think what I will do then is just clarify that I have not misled the Assembly, that I have been misrepresented. I am just using this opportunity to clarify that and to seek to correct the record.

MADAM ASSISTANT SPEAKER: Thank you.

Education Amendment Bill 2008

Debate resumed.

MRS DUNNE (Ginninderra) (3.18) I thank members for the opportunity to speak on this important bill. The issue of school closures is one that has been close to my heart for a long time, and amendments to try and make the process of school closures, when they become necessary, more transparent, more accountable and more responsive to the needs of the people of the ACT are also close to my heart. During the 2005-06 period, I moved on two separate occasions various amendments which, to some extent at a superficial level, looked pretty much like the amendments that were suggested by Ms Hunter in her second iteration of amendments to the Education Act.

They were superficially similar, and, for a while there, I think that some of my colleagues thought that Ms Hunter's proposal might warrant support. But when you look into the detail of it, I think that what Mr Doszpot said before the luncheon break is absolutely correct—the proposals being brought forward today by Ms Hunter do not actually make it any more difficult for the minister to close a school and do not actually put any further requirements on a minister. What has been proposed by Ms Hunter is a set of steps, none of which the minister has to have any mind of when he actually makes the decision to close a school. So we are still in the situation that, if we implement the legislation as proposed here today, we will have a sham consultation.

I think we need to have a look at the history of this. This bill in its original form was introduced in the first effective sitting week of this Assembly back in November 2008. What was proposed then was long and drawn out, and I do not think that anyone had any great deal of support for it. There have since been—what is it, Mr Doszpot—three sets of amendments of various sorts that have been circulated, and it is clear that, now that the government is proposing to support this, there must be something wrong with it.

In 2005 and again in 2006, when I was supported by Dr Foskey, when I made suggestions for improving the consultation process in relation to school closures, the relevant ministers, Ms Gallagher and Mr Barr, opposed those. If Ms Hunter was doing what I was proposing to do back in 2005 and 2006, there is no way that Andrew Barr could stand here today and say that he would support this motion, because he would be performing yet another turnaround in policy. It would be yet another Barr flip.

Over the course of the 2006 Towards 2020 debate, Mr Barr steadfastly refused to listen to the community on this issue, and he is now agreeing with all of these things. The Greens have to think very seriously about this. If Andrew Barr is prepared to support this legislation today, I think they have been sold a pup, and I think the people of the ACT have been sold a pup. The people that I have spoken to outside this place who have looked at this bill know that the Greens have been sold a pup.

It is quite clear that, if you go through the processes, yes, you can establish a committee that looks at all of these things, but the minister does not have to take

account of what that committee says. He can make up his mind to close a school, he can go through a chaired consultation and he can stick to the decision he made at the outset. There is no possibility of review of that decision and there is no possibility that the minister will be forced to make a substantial statement of reasons as to why he has closed a school.

Mr Barr: He or she, Mrs Dunne.

MRS DUNNE: We are talking about "the minister", the minister who has form on closing schools, the minister who has steadfastly resisted any improvement to the community consultation process. Suddenly he wants to sign up to community consultation processes on school closures. I think it is quite ironic that we have this process being debated now when you look at the sorts of things that the Greens said in the run-up to the last election and during and immediately subsequent to the school closures inquiry that was conducted last year. The Greens led people to believe that they would act to keep schools open.

In the run-up to the election—I know they hedged their words a bit and did end up sitting on the fence a bit—the takeout message for people in my electorate who were struggling with the school closures issue was that the Greens would support them in helping to either keep open or reopen their schools. On the day that the school closure inquiry reported, the Greens representatives said, "We'll stick to these commitments and we'll follow them right down to the line." Of course, Andrew Barr made it very clear on every occasion—you have to applaud him for his consistency on that—including in evidence before the inquiry into school closures, that there was nothing that this Assembly could do that would induce him to reopen any school that he had closed. While ever there was a pulse in his body, he was not going to reopen schools.

He made that perfectly clear, and the only way that you could have done that was by the Greens and the Canberra Liberals working together to force him to do it. But, of course, the Greens, who said, "We will stick by these recommendations to reopen Flynn and Cook schools," crumpled as soon as their senior coalition partner started breathing down their necks.

Mr Doszpot: They certainly did not go all the way.

MRS DUNNE: They certainly did not go all the way. They crumpled and they turned around and they abandoned the people that they said that they would look after. They abandoned the people of Hall, the people of Flynn, the people of Cook and the people of Tharwa. What we have here today is not an 11th-hour but a 15th-hour motion—"What are we going to do? We'll have to be seen to be doing something."

I put it to you, Ms Hunter, that the best time to take a bucket of water into a fire is when that fire is still burning. The fire is out; the schools are closed; you are complicit in ensuring that those schools remain closed, because you would not support the people that you said you would support. You come in here today with a series of amendments to the education bill. You have had three goes at it. It is half baked, and Andrew Barr thinks it is a good idea.

Just think about it. The person who, through 2006, in the face of constant motions and pressure from the Liberal opposition and the Greens member at the time, steadfastly refused to do anything about consultation on school closures suddenly thinks it is a good idea. Suddenly he is a convert. Why is he a convert? Because what has been proposed today looks good, but it does not actually have any substance to it.

There are a whole lot of committees, but there is nothing in this that makes Andrew Barr or any of his successors actually have to take into account any word that is written by a consultative committee. It does not allow an aggrieved community to seek a review of that decision, and it does not require Andrew Barr, or any of his successors, to give a real, considered statement of reasons about why he proposes to close a school. That is why the Canberra Liberals will steadfastly oppose this bill here today.

We will remain the only people who have been prepared to stand up for the community and ensure that, if the government wants to close a school, there is a proper process with the prospect of review and with a requirement for a substantial and real statement of reasons to be given.

We have to put some context in this. The whole process of school closures and the mechanism which has been advocated by the Parents and Citizens Association and the Canberra Liberals over a long period of time came about because of a very flawed process of school closures. The Charnwood high school was closed in terrible circumstances, and there is no doubt about that. Even the minister who closed that school admitted afterwards that it should have been done better. As a result of that process, the minister responsible and the Parents and Citizens Association came up with a set of guidelines, which became a pending schedule to the Education Act.

In 2005, when Minister Gallagher amended the Education Act, she implied on a number of occasions that that schedule would become a disallowable instrument under the new Education Act. When the new Education Act came into force in January 2005, I had a briefing with Ms Gallagher's then senior staff member about some concerns I had about the implementation of the new Education Act.

One of the things I specifically asked about was, "When are you going to put this schedule into a regulation?" He said: "Mrs Dunne, don't worry about it. There's no hurry. We don't plan to close any schools." This was the minister who, in early July 2005—not five months after I had that meeting—without making this regulation which she had promised and which her staff had promised me would happen, went about the process of closing West Belconnen high school.

As a result of Ms Gallagher's failure to keep her word with the community, that was the first time I attempted to put back into the legislation those things which had been agreed to by a former minister, Mr Stefaniak, and the Parents and Citizens Association. It was a bipartisan approach. It was agreed by the government and the community that this was the way to go. Subsequently in 2006, I attempted to do that again.

Ms Hunter's second lot of amendments seem to do much of what that old regulation did, but they only seem to do it. When you really look at the detail, it is not there. The enforcement is not there; the powers to require the minister to take account of particular things is not there. The other things which were added later—the capacity for friends of communities and people associated with communities to seek redress—are not there. Until those things are there in black-letter law, the people of the ACT will be undone by the likes of Andrew Barr. That is why we are not supporting these amendments today. We will not be part of another sham consultation process.

MR SMYTH (Brindabella) (3.32): It is interesting that the Greens have brought this bill on today, and one cannot help getting a feeling that there are some crocodile tears here. The Greens were elected on a platform where people were of the opinion that the Greens were going to somehow reverse or assist in reversing the closure of schools or reopen some particular schools. That is an impression they were certainly left with. Indeed, when you look at recommendation 13 of the education committee report on the closures of the schools, there is a recommendation that Hall and Tharwa primary schools be immediately reopened—commence the work. To have the Greens here saying today, "Let's set up a process so that we might do this better into the future," really beggars belief. It really makes it hard to believe that the Greens are actually committed to any of this.

We had an opportunity where the injustice that was done to two small communities—two unique communities in the territory—could have been undone. People had an expectation, based on the election, that that injustice would be undone. Yet what we find is that when the opportunity presented, the opponent that said that they were third party insurers, the opponent that was going to stand up for small communities like this, walked away from it. They walked away from the Greens member on the committee who agreed to this recommendation that said, "Let's start the work." More importantly, they walked away from the people of Hall and they walked away from the people of Tharwa.

I have to say that I have a particular concern about Tharwa as it is in my electorate. I have a particular concern on what that school closure did to that particular community. A large number of them feel very betrayed by this Assembly, by the Labor Party and by the Greens. They had an expectation that they would get their school back, and they did not. They read this report, signed up to by Ms Bresnan and Mr Hanson, that said that the committee recommends that, based on the demographic, educational, social and economic evidence presented during the inquiry, the government immediately commences the process to reopen the Hall and Tharwa primary schools.

The Tharwa community were pretty happy with that outcome, because they could count. They could see that the Liberal and the Greens member on the committee had agreed to it. They assumed, therefore, that six and four—10—would see a motion in the Assembly or something happen—for example, the Greens might use their influence inside their alliance with the Labor Party to actually make this happen. What did they get? They got betrayal.

I think the Tharwa community residents in particular would look at this bill today and simply say: "So what? It's crocodile tears. It's too little. It's too late. It's not going to

give us back our school." It was a special school in that it did not just serve the people of Tharwa and those further south; it did not just serve country kids or non-residential kids—

Mr Barr: How many kids?

MR SMYTH: it sought to serve those kids that did better in a small community. The minister asks how many kids. I am sure he will get up and tell us exactly how many kids. I am sure that he will enjoy doing that.

It is about the reason why we maintain small schools in all rural communities. It is not about the size of the school in a rural community; it is about the community. At the heart of those communities, in particular, are their schools. It is a place where those that live in the outlying areas can come together. In the case of Tharwa, it performed a very important function beyond just being a school.

Indeed it is encompassed in recommendation 13—the committee recommends that, "based on the basis of demographic, educational, social, and economic evidence". That is the importance of a school, particularly like Tharwa, to its community. It was not just the Tharwa community; it went way beyond the Tharwa community. You had people travelling south out of Tuggeranong to go to Tharwa to drop their kids off, because they saw it as a better option for the needs of their kids.

On various occasions we get kids with special needs that need these sorts of environments. We see the continuing trend here where we have got a minister who will not meet with the Shepherd Centre and will not meet with Noah's Ark to discuss the needs of those kids. We just abandon them.

The Greens had an opportunity to change that. The Greens had left people with the impression that they would change that. That impression was confirmed by recommendation 13 of the education committee report, and yet, when push came to shove, the Greens showed that they are the paper tigers of the Assembly. It is all about talk; it is all about process; it is not about better outcomes for the people of the ACT. In this case the people of Tharwa know that they did not get a better outcome because of what occurred in this place. So if you are looking for third party insurance, go and buy a different policy, because the Greens continue to perpetrate third party insurance fraud on the people of the ACT by saying that they stand for things but do not follow through when push comes to shove.

I do not know whether it is the education minister's influence or whether the Treasurer talks to them to get them to walk away from things. Indeed even Ms Bresnan was hung out to dry by the Greens party machine. They say, "We're not politicians; we're different," but, in the end, they are the worst, because it is hypocrisy to say that you stand for something and then, when you are given the opportunity and you have actually got the ability to change that outcome if you have got the courage, you walk away from it. That says you either do not have the courage, or you were not sincere when you started. The answer is probably both, and that is a shame.

What that says is: you can pass as much legislation as you want, but if you have not got the guts to follow through with it, the legislation is worthless. In this regard, this

legislation has the moral backing of the Greens. Unfortunately, in regard to education, the moral backing of the Greens does not amount to a great deal in this place, because—

Ms Bresnan: Like your advertising legislation.

Ms Hunter: We must throw that into the speech. Thanks, Amanda, for reminding me.

Mrs Dunne: She made a joke!

Ms Bresnan: We laugh at our own jokes.

MR SMYTH: Laughing at our own jokes, are we? Well, they are the best jokes to laugh at. Nobody else will laugh at their jokes. The problem here is that, if you look at the technical detail in the bill, if you were looking for something that was quite tough, if you were looking for something that was going to hold the government to account, this is not it. This does not make it any tougher. Any wonder the government will support it. You could certainly live with this as a bill, because you could drive holes through it, and that is why this bill should go down.

The shadow minister or the convenor or the spokesperson—whatever title is used here—should just simply withdraw the bill and go away and start again. If you really want to get some confidence back in the community, if you want people to think you are sincere about this issue, if you want people to know that this legislation will make a difference, this is not the way to go about this. This is not the legislation to pass in this circumstance when you have got a minister bending over backwards to say, "Yes, we love this." No wonder he loves it, because it does not stop him and it does not hinder and it does not protect our schools in the future and the people of Tharwa. It will give absolutely no confidence to those people that anything has changed in the Assembly. The only thing they can be confident about is that the only organisation protecting the future of their schools in the future is, of course, the Liberal Party.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (3.41), in reply: I thank members for their contributions to this important debate. When I presented this bill in December 2008 I indicated that the ACT Greens were committed to making sure that the distressing school closure processes experienced in 2006 would not happen again and this bill ensures that decisions to amalgamate or close government schools are made in a rigorous, thoughtful and transparent manner.

The current act is inadequate. In addition to the widespread concern expressed following the school closures of 2006, we have only to look at the fact that the Assembly committee late last year, after its inquiry into school closures and reform of the education system, made 15 recommendations designed to address the errors and shortcomings of that closure process. There were 76 submissions to and 30 witnesses before that inquiry, many representing large community or school groups. All had views on how the process was handled and how it could be improved.

This is the point of this bill. People want us to learn from the lessons of 2006 and ensure that no-one goes through that experience again. Parents and their children

demonstrating and visibly upset outside their schools is not something that we should see again.

A major concern through 2006 was the lack of consultation before the decision was taken. This bill requires the government to raise the issue with the school community before any decision is made. They must make an attempt to address any issues with the school's performance and consider alternatives to closure or amalgamation. I mentioned in my tabling speech in 2008 that in 2006 school communities were left pretty bitter that important and well-researched alternative administration models and other models were seemingly dismissed out of hand.

The bill clearly sets out the importance of considering the educational, social, environmental and economic impacts of any possible closure or amalgamation. There is a long list and at the top it says what must be included in this process. I am not sure what the Liberals do not get about the word "must" but we will move on.

In 2008, when I tabled the bill, I undertook to work on the changes, continue consultation and seek feedback before finalising debate on the bill. Indeed much consultation has taken place and I have kept both the Liberal and Labor parties up to date on the development of amendments to this bill. I will be moving these amendments a little later, in the detail stage. The bill, together with amendments, will go a long way towards ensuring due process is followed in relation to proposed closure or amalgamation of schools in the future.

The Assembly committee inquiry considered the bill and sought views on how effective it would be in achieving the objective of improving consultation, ensuring the processes would be open, equitable, respectful and transparent. The committee had some concerns with the extended timetable that the bill proposed. We were originally proposing 18 months. We have sought advice on this and, in line with the committee's recommendation, we will be seeking in our additional amendments to limit to 12 months the total period involved in any amalgamation or closure.

Overall the committee found that there was support for the amendments proposed, in particular the need for consultation on changes of this magnitude to be taken to the people as election policy rather than have them imposed on the community, as they were after the election in 2006. I think all in the community recognised that, irrespective of what you think of the outcomes, whatever your views on the respective merits of each of the closure decisions, the process that was undertaken to arrive at the outcomes was less than optimal. This bill seeks to address that and ensure that there is a proper process so that even if people disagree with the outcome they can logically and clearly, having had the opportunity to put a different position, understand why the decision has been taken.

Several school communities felt in 2006 that their efforts to present a range of viable alternatives in relation to their proposed school closure fell on deaf ears and appeared to be dismissed. The Assembly inquiry report states on page 3, section 1.15, that at the public hearing a representative from the Flynn Primary School Parents and Citizens Association identified the inquiry as the first opportunity to tell Flynn's story after two years of trying to challenge the school's closure. The inquiry report on page 24,

section 3.6, also states in relation to the Towards 2020 consultation process that the public discussion required for such a major adjustment of the ACT public education system was widely criticised and clearly fell short of the ideal process for genuine consultation.

In the key findings, the committee found that good public administration principles would suggest that a major restructure required a more strategic community engagement process. The bill does exactly that, as it sets out a very strategic, detailed process that not only provides a guarantee for proper community consultation but also facilitates the consultation and sets a minimum standard for the issues that must be considered in that consultation.

The amendments are not about revisiting 2006. Whilst the bill comes about because of what happened in 2006, that is the extent of the connection. The community has moved on and this is about making constructive changes and learning from past experience. It is about setting up a sound and robust process that ensures that the community has the opportunity to express their views on the full scope of relevant matters.

I do want to go to the issue today. The government have indicated that they will be supporting my amendments to the education bill and the Liberal Party have decided to walk away and not engage in this process at all. And I really think I need to spend some time addressing that particular issue. I thought it most unusual that the ACT Liberals were not supporting this bill.

In question time on 23 March this year, Mr Doszpot was asking Mr Barr to give assurances that he would not close schools in the near future. This bill was his chance to put in some legislation to ensure there was a better process around proposed school closures and amalgamations. But he was either outvoted by his party or he rolled over. In any case, whatever happened, future school communities have been let down.

Instead we have the Liberals, through Mr Doszpot, carrying on about some of the affected school communities. Again I remind him and his colleagues that the ACT Greens were well aware of the anxieties the school closures caused in 2006 and we went to the election in 2008 pushing for an inquiry into the closures and the importance of that inquiry looking at, among other things, the economic impact, the environmental impact and the views of the parents of children who have moved from schools.

Since the inquiry report was tabled, I have lobbied the ACT government to ensure the future of the Tharwa and Hall school sites. And let me just go to the Hall and Tharwa—

Mr Doszpot: How many recommendations of the committee have you incorporated—

MS HUNTER: Mr Doszpot, I would like to fill you in on what has happened on the Tharwa and Hall school sites. I have worked very hard and I have pushed very hard. I am sure you have put in some effort as well but I can assure you the work that I did resulted in increased preschool hours as well as a significant change to government

policy that will now allow a non-government school to operate from the old Hall school.

I also have pushed very hard through the former children and young people minister and now through the current one around the Flynn school site. And that was to ensure that the government, as the committee inquiry recommended, work with the John Flynn community group to look at the future uses and continue to implement the work around the former Flynn primary school site. I have also kept in regular contact with this group, ensuring that the process to refurbish this site into a vibrant community facility moves forward, including making it clear to government that money had to be made available in the 2010-11 budget to start the refurbishment. That is why I am very pleased to see $4 million was announced in the 2010-11 budget to get that going.

I do not know whether you sent a letter off to the minister pushing for a budget allocation. I certainly was in there. I was pushing to make sure it happened. And I am pleased to see that there was some money allocated. I note that the John Flynn community group and others in the Flynn community are pleased to see that it will not just sit there and continue to deteriorate. This has now happened. I have been actively engaging with and lobbying for these communities.

I will go back to Tharwa and Hall. We did have a very fine performance from Mr Smyth who was almost, I think, sobbing at the end of his speech. It was very emotional. I have been to Tharwa and I have had meetings. I have been taken for tours around Tharwa, and I can tell you that we have got a good relationship with the Tharwa community and the Hall community.

One of the other things I would like to also put on the record is, besides the increased preschool hours down at Tharwa, we also pushed—

Mrs Dunne: You need to be really careful. You might find out things that you do not want to hear.

Ms Bresnan: What? Was that a threat? Are you threatening me?

Mrs Dunne: No. I am suggesting you give a little bit and stop spending your time—

MS HUNTER: Sorry, I cannot hear myself speak.

MADAM ASSISTANT SPEAKER (Ms Le Couteur): Mrs Dunne, please hear the member in silence.

MS HUNTER: Thank you, Madam Assistant Speaker. Besides the increased preschool hours at Tharwa, I have also met with the Minister for Planning and have been lobbying and pushing—

Ms Gallagher: No bullying in the workplace, Mrs Dunne.

Mr Doszpot: I wouldn't go there if I were you.

Ms Gallagher: We are just seeing an example of it right here.

MADAM ASSISTANT SPEAKER: Excuse me, can you stop the clock for a minute, Clerk. Members on both sides, Ms Hunter deserves to be heard in silence. Ms Hunter, please resume.

MS HUNTER: Thank you. I also know that I have had conversations with and pushed, and my party has pushed, the Minister for Planning for some allocation of funds in future years for a master planning process for the Tharwa village and the Hall village. We already have one for Pialligo. We have had some agreement from the planning minister to put that into the funding mix. What we can see is that these are small communities, and the school closures did have a major impact on them.

As I have said, at Hall I have worked very closely with that community and enjoy a good working relationship with them. That has ensured that we have got the increased preschool hours, and we have now the option of the non-government school going in there. I understand that there are some discussions going on in that area at the moment.

But back to this idea of the master planning. It is acknowledged that we do want to see a viable, sustainable future for our villages. That means that we need to be also looking at the populations and, particularly down at Tharwa, what other things we can do to build tourism, to build the viability to support the businesses in those towns. And they are the conversations we are having, because we look forward. We look forward to the future. We look at viability and sustainability. We do not hang back in the past, sitting there throwing stones and not trying to work with communities or other parties in this place to try to find solutions. That is the hard work we have been putting in. I would say that I really needed to get that on the record.

What I will also say about this bill is that I am really quite taken aback by some of the comments about what it will not do. It really shows a total lack of understanding of what this amendment is about and how it will work. I was quite gobsmacked by some of the comments made.

I would like to say that I have gone about, my office has gone about, really trying to engage very much with the minister's office and with Mr Doszpot's office. Mr Doszpot made some comment about not having had contact or not knowing about it. So I did ask my office to go back and document every email and every meeting. In fact, some of the emails are saying thanks a lot to my office, thank you for the briefing, thank you for the update, thank you for keeping us informed. And that is the process we have used.

Yet when we get to actually trying to find out, back in March when I put this up—I remember it was Monday some time—"Are you going to support this?", the reply was: "I have to take it to the party room. I will get back to you. Don't you worry, I will get back to you." How did I find that out? By opening the *Canberra Times* the next morning at 6.30, and there was the Liberals' response: "We will not be supporting it." I do not think that goes very much to the idea of cooperation, collaboration and working together. Call me naive but I did think that there was going to be a little more involvement here.

The same thing happened this time around where I was told only five minutes before the bill came on, when I went up to Mr Doszpot and said, "What are you doing with this bill? Your office won't tell me," and finally he said no. Again, that really upset me. I do have a lot of respect for Mr Doszpot and I do believe that he does really want to do the best by education. And that is why I guess I am disappointed that there has not been active engagement in having a look at that.

We have given it to you. Why have I not had back some suggestions for amendments, some concerns raised about where you do not think it quite works or whether it might be improved? Not one suggestion, not one bit of engagement. I guess that is why I find your response so disappointing after all this time in getting it up. But thank you to the other members who are supporting it.

Question resolved in the affirmative.

Bill agreed to in principle.

Detail stage

Clauses 1 to 3, by leave, taken together and agreed to.

Clause 4.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (3.57): I move amendment No 1 circulated in my name *[see schedule 1 at page 2366]*.

Although we are going to take some of the clauses separately, or the amendments separately, I will use this opportunity to speak to all of them at this stage of the debate. Following extensive consultation over the past 18 months, these amendments centre on the need for a proper consultation process, an independent review of any proposed closures or amalgamations of schools, and consideration of all factors involved in and surrounding the school or schools involved in a proposed amalgamation or closure. Part of a proper consultation process is to ensure that there is some independence in that process.

The Assembly committee inquiring into school closures and reform of the ACT education system in 2006 recommended that in any move to close or amalgamate schools in future, independent assessments must be conducted to consider the social impact of the proposed changes and students affected by any change. The amendments provide for a panel of three people to be appointed to undertake the review and require that the Legislative Assembly education and training standing committee be consulted on who those members are. This is set out in a new section 20A.

We feel that at the very beginning of the process to close or amalgamate a school, any decision or consultation should have regard to the principles of government schooling set out in sections 7 and 18 of the act, in particular those affecting equity and education, outcomes, reasonable access to schools, and partnerships and education.

There needs to be a proper consideration of all the factors involved when assessing the impact of school closures or amalgamation.

The Assembly inquiry into the school closures in recommendations 9 and 10—I know Mr Doszpot and Mrs Dunne will be particularly interested in this—stress the importance of social impact assessments and public guidelines around the conduct of these assessments. By "social impacts", we are referring to the consequences of any public or private actions that alter the way in which people live, work, play, relate to one another and generally interact as members of society.

We have been told that one major consequence of closing the schools was that many children lost their sense of local community and that families no longer have the opportunity to connect with each other now that they are not involved in their local school. The same could be said of the village schools affected by the 2006 school closures.

The ACT Greens are seeking to address these issues in new section 20B by ensuring that these impacts are assessed from the outset. While this is a long list—and it is; it is a long and comprehensive list—it is not just about ticking off items on the list but looking at the effects as a whole and ensuring it is based on evidence and understanding of impacts in any decision making.

A change from what was originally proposed is the need to conduct the process to close or amalgamate a school over 12 months, not 18 as was originally proposed in the bill. In effect, this is a more streamlined approach. A 12-month minimum period in which to undertake the process required prior to a closure or amalgamation of a school achieves a fair and reasonable balance. I think I did mention before that this was actually something raised by the Assembly committee.

The feedback I have received is that this time frame is fair and reasonable and acknowledges the flow-on impacts to other schools and communities that take up the new students. Parents and students need as much notice as possible to enable a smooth transition to a new school or schools if needed. If, at the end of all this process with all of that engagement, all of that input, all of that expert advice and so forth, it is found that an amalgamation is the best option, or that a closure is the way that things have to go, there needs to be that proper transition for those students into other schools.

I remind members that I indicated in my speech in 2008 that many of the problems of 2006 related to timing. The reality back then was that despite the government indicating to the P&C councils that six months was only indicative and any closures would have a much longer time frame, the process then as it evolved was about the six-month consultation period, then closure.

The Assembly inquiry received a number of submissions describing a sense of panic amongst parents who were anxious about finding a suitable school to which to relocate their children. One parent told of being optimistic about consultation in relation to her school closing, only to be left with five working days prior to the end of term to find a new school when the old one was closed.

In addition, the requirement under section 20A(2) to establish, in consultation with the appropriate standing committee nominated by the Speaker or the standing committee responsible for education matters, a committee of three to undertake community consultation will assist in giving proper consideration of school community views.

I remind the Assembly that poor decision making in relation to school closures or amalgamation impacts on the broader community. Many times in this place since 2006 we have referred to the impact of the school closures on neighborhoods and many times we have discussed with the members of those communities the problems they have faced since these schools closed and how we can work with them to find a way forward and find solutions.

Schools provide a vital role in the social interaction and engagement in their surrounding communities. There is a flow-on effect, with businesses needing this activity to survive and provide services for the community. Indeed, in the school closures inquiry report it was noted in sections 2.12, 2.13 and in the key findings that prior to the 2006-07 budget, the need for structural reform, including the consolidation of schools, was not identified as a priority for the government. The extent of the reforms then proposed in the budget caught the community off guard.

Mr Doszpot interjecting—

MS HUNTER: The amendments can be summarised as follows. Mr Doszpot, you may be interested in this. They ensure that all those responsible for the management of the school and the parents and citizens council are notified of the proposal to close or amalgamate the school at the outset of the process.

It requires that the minister must appoint an independent panel to write a report and undertake consultation on behalf of the minister in the development of that report. It sets out the criteria on exactly what must be considered in consultation. This is a comprehensive list that ensures all relevant factors are considered.

This bill, together with these amendments, are all about improving the management of education in the ACT and learning from our experiences of 2006. They are not about making it harder to close schools necessarily, because there may be occasions in the next 20, 30 or 40 years where this issue may arise again in the Canberra community. But it is certainly about improving the process should a school closure or amalgamation be considered.

I emphasise that what these changes do is ensure that all the evidence will be available and that the community will have been consulted on the veracity of that evidence. If, all that considered, it would be better to close the school, that will still happen. The point is that now the legislation ensures all the facts, along with the community's views, will have been considered in a proper way, in a transparent way, in a way that is accountable.

Clearly, in this place it is our responsibility to continually learn from and improve policies, processes, regulations or, in this case, legislation, thereby ensuring that we

do not repeat past mistakes. That is why the ACT Greens are today putting forward these amendments. I commend the amendments to the house.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation and Minister for Gaming and Racing) (4.06): The government will support amendment No 1 circulated by Ms Hunter. It does go to clarify some of the issues that we had concerns with in relation to the previously circulated proposals and does appear to create a practical and workable way.

Ms Hunter alluded in her closing remarks on all of the amendments to the fact that there will undoubtedly at some point in the future be a time when an education minister is required to consider whether a school needs to close. In my view, as I have said this morning, the reforms of 2006 in terms of their scale and the structural reform that has resulted from them are a once-in-a-lifetime set of reforms. I do not think anyone would anticipate that there would be such a structural change required again, unless there were no children born in the territory for a considerable amount of time. But that, one would imagine, is highly unlikely, Madam Assistant Speaker.

I do note the entirely predictable position of the Liberal opposition. If ever there was an example of when an opposition is opposing simply for opposition's sake I think we have it today. Mrs Dunne gave the clearest indication of that. Simply because the government is supporting this legislation and I as education minister might be supporting this legislation of itself provides grounds to oppose it is possibly the best example of the mantra of opposition for opposition's sake.

It is up there with "spending money on public education is throwing good money after bad". Mrs Dunne has form in this area and she has given us possibly the best example ever. I hope that upstairs in the media offices, in Hansard and elsewhere there is a recording of Mrs Dunne's statement in relation to this legislation, that the Liberal Party are opposing it because I am supporting it. That is, I think, something that needs to be on the public record. I hope that all of those who review this debate will understand now why it is that it is so firmly the view of the Labor Party that the opposition, the Canberra Liberals, are about a mantra of opposition for opposition's sake. We see it very clearly demonstrated today.

MRS DUNNE (Ginninderra) (4.09): We heard the Andrew Barr standard response. He only has one response. It is not about opposition for opposition's sake. The Canberra Liberals have a clear, unequivocal, longstanding track record about how communities should be consulted if a minister thinks that a school should be closed or amalgamated. And this bill is not it.

This bill is a pale imitation of what, over about six or seven years, the Canberra Liberals consistently stuck with. The Canberra Liberals, through its minister and in consultation with the P&C association, drew up a matrix, essentially, of how this consultation should be done. Some of that is reflected in this myriad collection of amendments that have come and gone, in and out, and some of it is not. The things that are not there are the things that require the minister to take account of the report. It says that the minister must create a committee, but it does not require the minister to take account of what the committee tells him about the communities.

This piece of legislation does not give any community the opportunity to have that decision independently reviewed. The last piece of legislation that I introduced into this place, which was opposed by Andrew Barr, did just that. The reason I say that if Andrew Barr supports this we should be very afraid is quite simply that. Andrew Barr actually, actively and consistently opposed the sorts of reforms that I advocated over two or three years. They were real reforms that required the minister to take account of the information that came before him and gave the communities the power to have that decision independently reviewed. The fact that today we are proposing to put into legislation something that does not do that shows that the Labor Party and the Greens have sold out the community. Future school communities have been sold out by the unholy alliance between ACT Labor and the ACT Greens.

Mr Barr can attempt to verbal me all he likes. After his four-odd years in this place, I am completely used to it and it does not offend me one iota. It is again the case. I did not say that we were opposing it because Andrew Barr was in favour of it. I said that we needed to be concerned because he was in favour of it. We need to be concerned and the people of the ACT community need to be very afraid if Andrew Barr is in favour of this, because Andrew Barr has been consistently—and I always give credit for his consistency—opposed as a minister for education to having to have regard to what the community consultation actually says and actually take into account the results of the community consultation.

He refused to do it in 2006. If perchance in 2012 he were the minister and he wanted to close a school, he would choose to do it again under this flawed legislation. Under this flawed legislation, if Andrew Barr in 2012 wanted to close a school, the affected school community could not seek an independent review of the decision. Until the Greens and the Labor Party agree that the community should have available to them an independent review of the decision, we will not support their sham consultation process. Unless there is a proper review process, this is a sham and this is why the Canberra Liberals are refusing to support this unholy alliance today.

MS BRESNAN (Brindabella) (4.14): I would like to speak just briefly to the amendments in particular because, as Ms Hunter has already mentioned today, they very much go to the recommendations that were in the report from the education committee. Mrs Dunne has been getting a little bit hysterical, so I am not quite sure what has been going on here. But Mr Doszpot said that Ms Hunter's bill amendments had not considered the education committee report whereas, as Ms Hunter has said, they do.

In fact, as we have already noted today, the committee inquiry actually examined the Education Amendment Bill, and the amendments that were put forward by Ms Hunter are very much due to the findings of the committee report. These are particularly around, as Ms Hunter has already spoken about, the time frame for consultation and the need to consider the wider social impacts of school closures on the community.

The committee did hear from Dr Alison Ziller, an expert in social planning and social impact assessment, who very much spoke about the importance of having that as a part of the process when you are looking at these sorts of changes to the community and also in terms of the type of consultation that you need to undertake.

I just want to read out one of the quotes from Dr Ziller when she was talking about the process of consultation. During the hearings we heard about the number of meetings which were held and she very much emphasised that it is not actually about the quantity of meetings or the quantity of consultation; it is about the quality and how you engage with the community. This is what she stated:

> It is not about the number, it is about the quality of the process. If you hold 700 meetings at which you tell people what is going to happen, it is not highly consultative. I do not know what happened. If you hold 700 meetings and the people who come to those meetings cannot get a record of their contribution then it is not a transparent process. Even if you hold 700 meetings, it is not the same as properly structured research. What happens is that the people who go to consultation meetings are the people who go to consultation meetings. The people who are uncomfortable in consultation meetings, public meetings, where lots of people are excited and shouting and whatever, do not get heard.

I think that is important to remember in the consultation processes that are undertaken.

As Ms Hunter has already said, there were a number of submissions to the committee about the Education Amendment Bill and why there were different views about what the period of consultation should be. Consistently, members of the community said they noted the need to accommodate the full-time obligations of busy parents who usually act in a volunteer capacity to support their school communities.

Many of the submissions to the inquiry highlighted the enormous amount of time spent in having to put research into writing submissions into the process with Towards 2020, and they very much noted that you do need that added consultation time to allow that process to be undertaken, which is why the 12-month period has been put into the amendments.

Again, I want to refer to a quote from Dr Alison Ziller about social impact assessment and how the process for community consultation is important:

> The iron law of consulting is that never is enough consultation done and after you have letterboxed every street and house, most of them did not get it. However, there are two ways to ameliorate that. People feel very upset about it, and I understand why that is. There are two ways around that. One is that what you did is really transparent. Nowadays, people put things on the website, it stays there for a minute and a half and it is not there any more. So it is available, you can track it, you can see that they said they did this and they did that. The second is you do not have very short time periods for comment and you do not try and put a massive change through in a very short period of time. All of those things will fester the idea that we were not consulted, whether or not we were.

I think that is really important, looking at the consultation time period. Again, Dr Ziller talked about that clear understanding of communities wider than just the school community being impacted by these sorts of decisions and why having social impacts included is such an important thing. I think this is one of the really important amendments that Ms Hunter has made, recognising this and having this agreed to. I think it is a real step forward for the consultation process around these sorts of decisions in the ACT, and I think Ms Hunter should be commended for putting this in.

I do again have to say that I am exceptionally surprised that the Liberal Party have not engaged at all in this process, and to hear today what we have heard from the members is exceptionally disappointing, because I think we do try to engage with all parties. We have engaged with the Liberal Party on other pieces of legislation and I guess it is very hard to understand why with this piece of legislation, which is something I would have thought they would have supported, they have only criticised it.

The thing is that they have not engaged in the process at all, have not put forward any amendments and have not engaged in its development. So to then come forward and criticise it is so disingenuous it is just beyond belief, really.

Amendment agreed to.

Clause 4, as amended, agreed to.

Clauses 5 and 6, by leave, taken together and agreed to.

Clause 7.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (4.21): I move amendment No 2 circulated in my name *[see schedule 1 at page 2367]*.

I did speak to the amendments previously but I do think it is important to pick up on one thing I did not have a chance to mention before. On a couple of occasions this afternoon Mrs Dunne talked about some previous processes she was involved in around getting a better schedule or better process around consultation on these matters and that she felt that many of the things that have been included in these amendments were good; they were part of that. But it seems to me that what she comes down to is to keep saying that this is not the right legislation because there is no review mechanism.

I should have gone to it before but I will go to it now. The reason is that in an earlier draft, I guess, we did have in an ACAT review and it was to be included. The reason that we have taken that out—

Mrs Dunne: Andrew twisted your arm.

Mr Doszpot: That is one we did not see. Somehow we did not get a copy of that one.

MS HUNTER: Maybe I could talk now? The reason that we decided to remove it was based on legal advice and it was very consistent with the Administrative Review Council guidelines on merits reviews. I think it just shows a lack of understanding and of ignorance of what ACAT is there for and how it relates to this. Certainly, we had thought that might be the best way to go. But, after seeking that advice and looking further into the issue, it was not.

What you need to understand, quite clearly, is that, because we have put a series of processes into these amendments with "must", it means that, if the minister breaches

or does not follow these amendments, this part of what will be law, properly, people can take out an ADJR review and do that—

Mrs Dunne: And look what happened at Flynn when they did that.

MS HUNTER: That is an option—

Mr Doszpot interjecting—

MS HUNTER: and that is one that we are aware of. I really felt that it was important.

Opposition members interjecting—

MADAM ASSISTANT SPEAKER (Ms Le Couteur): Members of the opposition, please let Ms Hunter finish her speech.

MS HUNTER: Thank you, Madam Assistant Speaker. I just thought it was important to get down on the record that that was why we did not go down the path of ACAT at this point; it just was not the appropriate avenue.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation and Minister for Gaming and Racing) (4.24): The government will support Ms Hunter's amendment No 2. This inserts into the dictionary a definition of school community and examples of local community. It is a definition that has been the subject of some negotiation, as I understand, but one that does appear to pass a commonsense test—

Mrs Dunne interjecting—

MR BARR: in the definition of school community. Surely, not even you, Mrs Dunne, could find a conspiracy in the definition of school community that is put forward in this particular amendment—surely not even you. But I will—

Mrs Dunne: Basically anything you do I can find a conspiracy in.

MR BARR: Well, there you go. I think that is a pretty sad insight into your state of mind, Mrs Dunne. I look forward to you presenting the conspiracy in relation to clause 7 and the definition of school community. You have the floor.

MRS DUNNE (Ginninderra) (4:25): Just on the comments made by Ms Hunter, the idea that—

Mr Barr: Oh, dear.

MRS DUNNE: I will get to you; do not worry.

Mr Barr: You will get to me? Right.

MRS DUNNE: I will do it sequentially. What we have seen here from Ms Hunter at the last is an admission of failure. She has admitted that she tried to think of a way of

giving the communities a means of having a minister's decision reviewed but she could not think of it so left it to ADJR.

Let us have a little bit of history here for the Greens, who were not here, about what actually happened to a community that had the temerity to question the minister's decision and take that matter to court. The minister did everything he could to screw that community down. He spent a lot of time ensuring that large amounts of money were extracted from the Flynn community by way of guarantees.

Every attempt at discovery was knocked back by the department. We had to actually change the import and impact of the model litigant guidelines, partly because of the behaviour of the department of education and the minister in response to the Flynn primary school community having the temerity to use the system in the Supreme Court, through ADJR, to find out and get reasons from this minister.

That is the history. Tens of thousands of dollars that was raised by personal pledges through fundraising events was put into the Supreme Court as security so that the community could make some progress. That is what this government and what ACT Labor do to a community that dares to question what they do.

One of the things that we tried to do in previous legislation was make it better. And Ms Hunter here today has said: "It is too hard to make it better. ACAT is not the way to do it. So we will just leave it to ADJR." But leaving it to ADJR has left a lot of people in this town a lot poorer. That is another reason why this bill fails to meet the basic requirements of the Liberal opposition.

The Liberal opposition will not be supporting this because what the Greens, in cahoots with Mr Barr, are proposing to do, if there is another community like Flynn that is confronted with a school closure and wants to take legal action in the matter, is to put that community in the same situation.

Ms Hunter, who is an elected representative of the people of Flynn, has said that the way that the people of Flynn were treated was okay. The extent of deposit that was required by the government just about broke the Flynn community. Is that the way she wants her constituents treated by Andrew Barr and his successors? I think the answer must be yes. But it is not the way I want my constituents treated.

MR DOSZPOT (Brindabella) (4:29): There have been a number of things said this afternoon about misrepresentation. The misrepresentation by this minister was one of the significant things that were looked at during the school closures inquiry. The school closures inquiry made many damning findings that highlighted how the minister for education at the time, Mr Barr, proceeded to close schools for no sound reasons, based on flawed data, with invalid information on school size and school performance and with no social impact study whatsoever. This is the minister you are wanting to trust with a lot of amendments that have been made so far. That is what we do not go along with.

The misrepresentation of significant evidence suggesting that small schools were viable, namely, Professor Caldwell's report, is another failure on this government's

behalf. Professor Caldwell's research was clearly misrepresented and skewed to suit the purposes of the government. The education committee agreed that the research findings of Professor Brian Caldwell were misused and should not have been used at all to justify these school closures. That is just a bit more history, Ms Hunter.

The minister was also given a slap by Professor Caldwell, in a letter to the committee. In each formal notice of decision to close 11 primary schools in 2006, the research of Professor Caldwell was cited to justify closing the schools because there were fewer than 300 to 400 students. The notice stated that the school concerned is too small, based on Professor Caldwell's research, and is more likely to be unable to provide an adequate education because of its size. However, this contradicted the professor. And the committee's report cites the professor's information. That is just another indication, Ms Hunter, why we want to have something more rigorous in place than what has been presented here today.

Mrs Dunne pointed out quite clearly that, when communities do want to fight back through the processes that you think are available to them, this government get down and dirty in the way they present against these communities. I feel very strongly about the fact that the Flynn community has had to bear the brunt of all of these activities. Certainly, there is nothing that we have seen in the bill that has been presented to give us confidence that this is going to be any different from what we have had to go through and what the community has had to go through in the past. And that is why we are voting against this bill.

MADAM ASSISTANT SPEAKER (Ms Le Couteur): The question is that Ms Hunter's amendment No 2 be agreed to. All those of that opinion say "aye"—

MR HARGREAVES (Brindabella) (4.32): No, Madam Assistant Speaker, I am on my feet.

MADAM ASSISTANT SPEAKER: Sorry, I thought you were perambulating, Mr Hargreaves.

MR HARGREAVES: Apology accepted.

Mrs Dunne: Loitering with intent.

MR HARGREAVES: Hang on a second. You people have dribbled on for bloody ages. You can just sit back and suck it up.

When I was sitting upstairs, I was appalled by the hypocrisy of Mrs Dunne in giving this chamber a history of this and then saying, "I am sorry, the closure of some schools when we were in government was a mistake." Who was working for Gary Humphries at the time? It was Mrs Dunne. I worked in the department of education prior to coming here and actually had to take part in the removal of stuff from the Charnwood high school when it was closed. Was it a Labor government here then? No, it was not.

I would like to ask those opposite to stand up here and fess up to the community consultation they did over the closure of Holder high school, Holder primary school,

Fisher primary and of course, as I have just mentioned, Charnwood high school. If you are going to have a go, make sure you tell the whole story. Just saying, "One school, sorry, that was a mistake," does not cut it for me. And having the pontificating hypocrisy to come in here and lecture the Greens, who were not even on the horizon when you people over there were closing schools without consultation, is a bit rich. And you are trying to lecture this minister on a consultation process that you people just did not bother with. You just thought, "Oh, it is economically the good thing to do." Bang, good night!

I can tell you what consultation was given to the people of Holder. I had a brother-in-law living there at the time. I have a staff member who has been there since about 1860. The answer is none. What about Charnwood? None. The consultation was after the event, when we could not fill it and it became a derelict site and cost the ACT taxpayers a squillion in security services and boarding-up costs, to the extent that they had to have security guards installed before it got moved into a different space.

Ordinarily I would not engage in this particular debate—there are people much more expert in it than I am—but I will not stand by and listen to that pontificating dribble that Mrs Dunne is so constantly coming up with, when she gives this chamber 20 per cent of a story and holds it up as being the whole lot. It is not, and someone has to stand up here and say to her, "Get your facts straight."

Mr Doszpot: So you are giving us 17 per cent there, John?

MR HARGREAVES: Mr Doszpot, you should be quiet right now. Right now you are on the right side of the ledger. Do not wreck it. So far Mr Doszpot has behaved remarkably well. I congratulate him to this point. I plead with him not to tempt me to decimate him, because I will.

I am, on behalf of the government and indeed myself, having worked in the sector prior to coming here, appalled and insulted by the insinuations that Mrs Dunne brings forward. It is absolutely disgusting. She lays these sorts of things at the feet of the minister. She says the consultation process was not adequate. If the minister was to table the extent of the consultation process that he engaged in, it would go for reams.

The fact is the consultation process did not reveal the results that those opposite wanted to hear. That is the simple fact. The consultation process itself cannot be criticised. They did none. This minister did heaps of it. Because it did not come up with the answer that they wanted, because they saw a political point to be scored, they continue it.

Here is a fact for them: it is over. They should get over it and look forward to the education revolution and the innovations that this minister has brought to bear with education in this city, since all of that has happened, and the tens of millions of dollars that have been sunk into the education process. We can argue about that if you like—about the priorities, whether we think it is the right spot or the wrong spot, fine—but going back and revisiting it and giving hope to people in the community, where there is none, and criticising the process, which was robust, from a position of hypocrisy is just plain not on. I suggest we follow the lead of the minister for education.

Mrs Dunne: You have kissed and made up, have you?

MADAM ASSISTANT SPEAKER: Mrs Dunne, please be quiet.

Mr Hargreaves: Madam Assistant Speaker, on a point of order, Mrs Dunne would well know that, in accordance with the standing orders, I kiss nobody.

Amendment agreed to.

Clause 7, as amended, agreed to.

Proposed new clause 8.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (4.38): I move amendment No 3 circulated in my name *[see schedule 1 at page 2367]*.

It inserts a new clause 8. This new section is about the independent committee. It is a committee of three people who would obviously have the right skills to be able to put together a report that would be used for consultation with the particular school community.

It is quite clear that the committee must consist of three people, selected after consultation with the appropriate standing committee. And on that front, it does say that it will be a standing committee nominated by the Speaker or a standing committee that is responsible for educational issues. That means a standing committee of this place does have a say as far as being able to provide some input into who may be proposed to be part of this committee. Bear in mind, it is quite a large list that goes through the environmental, educational, economic and social impacts that need to be looked at. And that is an extensive list. It is a comprehensive list.

Many of those things were picked up from the inquiry. We did send over our amendments, as Ms Bresnan said earlier, to the inquiry so that we could also seek their advice on what they thought about what had been proposed in our first set of amendments back in 2008.

This has been developed, with the assistance particularly of experts like Alison Ziller, around the social impact part that needed to be included. I believe that this really does get to the heart of a range of issues that would need to be considered if there were a proposal for amalgamation of schools or a closure of any school.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation and Minister for Gaming and Racing) (4.40): The government will support amendment No 3, proposed new clause 8, circulated by Ms Hunter, with two exceptions.. The amendments will be circulated. I foreshadow that I will be seeking to move two amendments to Ms Hunter's amendment in relation to the particular lists that are covered on pages 4, 5 and 6 of Ms Hunter's circulated amendments.

Just before I go to those, let me look at the specifics of these particular amendments. I think they do cover, as best we can from this vantage point, the range of issues that were considered in 2006 and, indeed, can be considered in the future. I particularly want to acknowledge that this list now encompasses a range of challenges that confronted the government in 2006.

Most particularly, I draw the Assembly's attention to the educational impacts, most particularly assessing the range, quality and depth of education programs but also looking at the age and condition of school infrastructure, facilities and resources, teacher resources and workloads, extracurricular activities and then looking at economic impacts such as, of course, the much-argued-about recurrent and capital savings that accrue from a school closure and, importantly, the comparative cost per student to operate a facility now.

Looking into the future and looking at the direction of school funding in Australia and the particular issues that the government confronted in 2006 in relation to higher average cost per student for some of the smaller schools as a result of particular funding structures, I can reasonably confidently say that, with the future direction of education policy being around funding schools rather than funding education systems, the wide disparity of funding that certainly had occurred in the ACT system, where for example—

Mr Doszpot: It had no impact on Tharwa, did it?

MR BARR: If Mr Doszpot would hear me out, for example, in Tharwa, the cost of educating a student in 2006 was somewhere around 2½ times the average cost of educating a student in the average ACT school.

One would presume, if the Liberal Party in the ACT were consistent with the Liberal Party nationally, their preference would be for voucher-style funding systems where a set level of funding is attached to a student and follows that student regardless of the educational institution they attend. Then the prospect for such a level of public subsidy based solely on the number of students in a particular school would no longer apply. The resourcing implications for schools into the future, on one level, will become more acute because the level of public subsidy will not be there, as funding will be more likely to be attached to the student rather than funding a system overall.

That is clearly one direction of education funding policy that would appear to be the path that we are heading down at a national level, subject of course to the outcomes of the review of school funding that the Deputy Prime Minister has commissioned. But it is clear that there will be a greater emphasis certainly on new resources in the education system being targeted at individual students who have particular needs or individual schools, rather than spread into systems.

We will not see some of those issues that were confronted in 2006 being such a great challenge in terms of the equitable distribution of resources within school systems, because the funding models are going to change. That will certainly give greater transparency in terms of where government resources are allocated in the education

system. Clearly, it was the case in the ACT in 2006 that resources were being allocated on the basis of educational need or socioeconomic disadvantage.

You have got a massive public subsidy, often 2½ times the amount spent on your education as opposed to the education of a particular student in a particular school, for no reason other than they happen to attend that school. There was not an educational reason for it and there certainly was not a socioeconomic disadvantage that was trying to be overcome in the distribution of those resources. That is going to change.

The structural changes that were made in 2006 certainly levelled out that situation, more fairly distributed resources, and freed up a considerable amount of money for the government to invest, for example, in high priority areas like pastoral care, Indigenous education, support for students with a disability. We are able to redirect that funding towards areas of higher educational need or socioeconomic disadvantage. And I think that level of transparency is important. To have that recognised in this particular amendment is significant.

We also then look at some of the other issues. Undoubtedly, even with agreement on environmental impacts, there will no doubt in the future be some contest over, for example, greenhouse gas emissions. Mr Smyth made some observation in his speech earlier that there were a number of students—and it was about half of the student population in Tharwa—who drove many kilometres to attend Tharwa, thereby contributing to greenhouse gas emissions. Whilst I understand that the intent of including that would probably be around the provision of local schools, unless we are going to change the policy and require that all students must attend their closest local school, then there will be greenhouse gas emissions as a result of transportation for students to attend a variety of different schools.

These impacts need to be assessed both ways, and I am sure that the independent committee, should it ever be formed, would have quite a challenge. Nonetheless, it will be an interesting challenge should they ever be formed and ever have to consider these matters in relation to, for example, calculating greenhouse gas emissions.

Overall, with the exception of the two amendments that I propose to move, I think this represents, as best we can find, a balanced list that considers all of the issues. I am sure that at some point in the future there will be some other ideas that people might think of and that there will be a future debate in this place where some additions might be made to this list or some issues that are on this list might no longer be deemed to be relevant. But for the purposes of a debate in 2010, I think they represent a very balanced outcome.

Again, I thank Ms Hunter and her office for the manner in which we were able to discuss these particular ideas and, indeed, a number of, I believe, important elements that were incorporated into the final amendment. And I suppose it would be appropriate now for me to move amendment No 1, circulated in my name, to Ms Hunter's amendment. I move amendment No 1 to Ms Hunter's amendment *[see schedule 2 at page 2370]*.

MADAM ASSISTANT SPEAKER (Ms Le Couteur): In which case, we now go to the question that Mr Barr's amendment be agreed to. Do you wish to speak more on this?

MR BARR: Yes. This amendment seeks to insert student literacy and numeracy outcomes and other educational outcomes into the list of educational factors that should be considered. Clearly, this data will be publicly available on the My School website. It is appropriate, therefore, that it be available and considered by an independent committee, as members of the community will be considering it, in relation to any proposed closure or amalgamation of a school. Given the information is publicly available it seems silly to exclude it from the list that an independent committee would assess. I think common sense dictates that it must be included in this list. I seek the support of the Assembly for that to occur.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (4.50): We will be supporting Mr Barr's amendment. The original list talked about educational impacts and there were spots, particularly No 9, around student outcomes and also, at the end of the list, any other information that needed to be included. We certainly have no objection to Mr Barr's amendment. I guess it puts something in in a more explicit way and adds another thing to the list that must be considered when there is a proposal to close or amalgamate a school. We will be supporting this amendment.

Amendment agreed to.

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation and Minister for Gaming and Racing) (4.51): I move amendment No 2, circulated in my name, to Ms Hunter's proposed amendment *[see schedule 2 at page 2370]*.

Again, to be brief, this amendment proposes to omit one of the subsets under the economic impacts set of criteria on page 5 of Ms Hunter's amendment. This relates particularly to a requirement to assess financial impact on local business, including ongoing liability. The government's view is that this sits rather oddly with the other economic impacts which relate more directly to the costs and savings et cetera of operating a school, the impacts on parents and the cost per student analysis. It is a somewhat strange location for such an assessment requirement to be in the legislation.

As a matter of principle, I do not believe that you should be determining education policy and the provision of education services based on local business impacts. I think that is an externality that needs to sit aside from your policymaking and decisions in relation to the location of schools. I cannot think of many other public assets in the public service provision where you would be making decisions about service provision and what is the appropriate service provision based on local business viability. I am not suggesting that there are not externalities in relation to the location of a school.

I would pretty much call this the lolly shop amendment. We should not be making our decisions on the provision of schools and schooling services based on how the corner

shop goes. It is a fundamental issue of principle. You allocate education resources to deliver the best education outcomes. If there is a positive externality to the lolly shop provider and the corner store, that is fine, but I do not think that you should be making that an explicit determinant of the location of an education facility. That appears to be a bridge too far in terms of the provision of government service. I note that we are certainly not requiring it in other areas of service provision. We do not choose to locate other facilities with a view specifically to their impact on local business.

I repeat—before I get verballed by those on the other side—that I am not suggesting that there are not externalities, that there are not benefits from the local shop being located next to the school. Clearly, there are, but I just do not believe it can be a determining factor in government policy provision in this area. Taking that to its logical conclusion, effectively there would almost be a requirement that we have to create a level playing field and that we have to locate a school next to every corner store to ensure that there is even competition in the provision of education services. It is the government's view that, as a matter of principle, this should not be explicitly required in this legislation. Again, I repeat that I am not suggesting that there are not externalities and positive externalities that accrue to local business by being located close to a school. But not every local business will be or should be located next to a school.

MS HUNTER (Ginninderra—Parliamentary Convenor, ACT Greens) (4.55): The second of the government's amendments limits the scope of the consideration and the ACT Greens will not be supporting it. No one factor determines whether or not a school should be closed. They all contribute to the picture and facilitate a better understanding the minister must have. No-one is suggesting that this factor alone should determine the outcome. We have a number of diverse communities within the broader community. We should have the foresight to allow for all manner of community circumstances and not preclude ourselves from what may be relevant information.

No-one is suggesting that if you have a poorly performing school with relatively few students that requires an unreasonable allocation of funds to achieve the desired education standard the fact that the school closure would have a negative impact on the local corner store would prevent the government from closing the school. You would be looking at all the information before you. I refer the minister to the committee report and again emphasise the need to take into account the full spectrum of factors and recognise the contribution that schools make to our community, to their neighbourhoods. That is why we will not be supporting this amendment.

MRS DUNNE (Ginninderra) (4.56): The Canberra Liberals had not intended to comment much on the government's amendments, but this one is a standout. I congratulate Mr Barr on being consistent. He has consistently said from the beginning of the Towards 2020 process that his job was not to prop up local business, as he put it. I recall the night of the very first consultation meeting when he was asked directly by Hall residents—

Mr Barr: Would I keep the school open but save the school.

MRS DUNNE: You were heard in silence. He was asked directly by Hall residents what consideration would be given to the fact that if the school closed it would have an adverse impact on businesses in Hall. He said, "I'm the minister for education; I'm not responsible for that," or words to that effect.

Mr Barr: I think I said: "No. It could not influence my decision."

MRS DUNNE: No, he made most of the arguments he has made here today. He said: "I'm interested in the educational outcomes. I'm not interested on the impact on business". I am interested in the impacts on business. This amendment today is the "get Hall, get Tharwa community memorial amendment". Quite frankly, Mr Barr said that he was not interested in the economic impact on the Hall and Tharwa communities of closing the schools in those communities. I talk to the people in the community, especially the Hall community, about the economic impact that it would have and the ongoing economic impact that it has had in that community.

The Education Act clearly says that, when making decisions about the closing of schools, the minister has to be mindful of the economic impact. It is not how much it costs to educate a child but the economic impact. That economic impact is in no way defined. It is important that, when making a decision about closing a school, one of the things—and this is where I agree with Ms Hunter—you have to take into account is the financial impact on local businesses of that decision.

In large communities the financial impact might be minuscule, but in small communities, isolated communities, the financial impact may be very great. In the case of my electorate—my constituency—in Hall, the impact was very great. As a result of this the Canberra Liberals will be opposing Mr Barr's amendment today.

Amendment negatived.

Proposed new clause 8, as amended, agreed to.

Title agreed to.

Question put:

> That this bill, as amended, be agreed to.

The Assembly voted—

Ayes 11		Noes 6
Mr Barr	Ms Hunter	Mr Coe
Ms Bresnan	Ms Le Couteur	Mr Doszpot
Ms Burch	Ms Porter	Mrs Dunne
Mr Corbell	Mr Rattenbury	Mr Hanson
Ms Gallagher	Mr Stanhope	Mr Seselja
Mr Hargreaves		Mr Smyth

Question so resolved in the affirmative.

Bill, as amended, agreed to.

Kangaroos—cull

MRS DUNNE (Ginninderra) (5.03): I move:

That this Assembly:

(1) notes the:

(a) Government's decision to conduct a kangaroo cull in ACT reserves;

(b) cull is being informed by the Kangaroo Management Plan and the animal welfare code of practice for kangaroo control;

(c) support for the kangaroo cull from the Commissioner for Sustainability and the Environment and the RSPCA;

(d) disinformation campaign conducted by some groups about the need for, and methods used, in the cull; and

(e) decision by the Government to bury the kangaroo carcasses rather than offer them for sale;

(2) supports the Government's decision to conduct this kangaroo cull; and

(3) calls on the Government to ensure:

(a) accurate information about the conduct of the cull is made available to the community; and

(b) that carcasses are disposed of commercially rather than buried.

Since putting this motion on the notice paper, I have received an extensive and very thorough briefing from officials, facilitated by the Chief Minister's office. I thank the minister for his assistance in that. As a result of that, I had contemplated a modest amendment to this in relation to the last point in my motion, which would be—not so much in relation to this cull, but in relation to prospective or future culls—that we should look at the commercial use of the carcasses rather than burying them.

As a result of the briefing that I received yesterday, it became clear to me that the obstacles that would prevent us from commercially using carcasses from this cull, which is in a narrow window of opportunity between now and the end of July, are too great for us to make any changes to the current plans. But in future—and it is almost certainly the case that we will have future culls—we need to clear the path to ensure that we are not wasteful and we do not bury the carcasses, which could have other, more useful applications.

The Chief Minister has proposed and circulated an amendment very similar to the one that I drafted. As I said to him before, in the spirit of bipartisanship I will defer to him, and we will be supporting his amendment in that area.

Last Saturday's *Canberra Times* carried a front-page story announcing the start of a new kangaroo cull program in eight nature reserves across the ACT. According to the story, the government gave less than 24 hours notice that the gates of chosen reserves would be closed in readiness for the program. The government has become ready for the animal rights and welfare activists. It posted notices on the nature reserves warning that fines of up to $5,000 would be levied on anyone who trespassed in the reserve during the cull period, which runs until 31 July. This is decisive action, and it is decisive action that was needed.

Mr Stanhope now is an expert on managing kangaroo culls. He has been there before, and he has endured the wrath of activists. It is interesting to note, in the history of the ACT, how difficult it has been to conduct kangaroo culls in the ACT. I remember that when Ms Follett was the Chief Minister and Bill Wood was her intrepid environment minister, proposals for kangaroo culls were met with unbelievable cries of outrage from the community. I remember a rather amusing Pryor cartoon at the time: a kangaroo had made its way into a car driven by Ms Follett, and Mr Wood was in the passenger seat; they had a kangaroo in between them and it was causing them considerable difficulty—as was the issue in the public domain.

As members know, I worked for Gary Humphries in this place over a period of time. When he was the minister for the environment, we, too, had to manage kangaroo culls and were confronted with real problems from animal activists on those occasions. On occasions, animal activists attempted to put themselves between marksmen and kangaroos, a very dangerous thing to do. It was very disruptive; it was very difficult for the parks and conservation rangers involved; it was very difficult for the contractors involved; it was difficult for the police; and it was unnecessarily dangerous.

With the Googong cull a few years ago—which I think was when Mr Stanhope cut his teeth on culling—the same issues arose. We had animal activists squirreling themselves away during the daytime, only to pop up at night and put themselves in great danger. Just imagine what would have happened if someone had been inadvertently wounded or killed because of the reckless behaviour of a group of activists in this area.

As a result of the very hard work that successive governments have done, we are now getting to the stage where there is sufficient work and sufficient rigour in the process that underpins the decision to cull. And there has been sufficient conversation in the community that there is much less heart in the community for outrageous and dangerous stunts on the part of people to try and disrupt these culls.

When I was talking to officials yesterday, they pointed me to the various types of research that have been done, which now seems to indicate that less than 10 per cent of people in the ACT are opposed to a cull under any circumstances. That shows that we are now in a situation where the community has come to realise the necessity for this somewhat difficult decision. It is time that members of this Assembly join in a tripartite way and support the officials and the contractors who have to do this difficult work. That is part of the reason that I have put this motion on the notice paper today.

As I have said, Mr Stanhope knows the ropes, because he has endured the wrath of activists. I have often been quite sympathetic to the position he has found himself in. One of the most memorable pieces of media I have ever seen the Chief Minister do was when he gave a heartfelt plea which was essentially a plea for people to understand that conservation was more than the protection of the cutest, more than the notion that if you have large eyes and fur you are worth protecting. On one occasion, he made a heartfelt plea that somebody needed to stand up for the perunga grasshopper, and I agree with him. Conservation is not about looking after cute furry animals. Conservation is a difficult thing to do. It is a balancing act. And it is even more a balancing act when essentially we live in an urban environment.

What we have seen as a result of this is the development of the kangaroo management plan, which has given particular authority to the decision making because it is a well-researched and well-referenced plan. The plan, recently finalised, carries the support of some of the most respected in our community, including the RSPCA and the Commissioner for Sustainability and the Environment. The Canberra Liberals support the kangaroo management plan, and I wonder whether Mr Barr would call this support opposition for opposition's sake. We support it because, unlike the work that Mr Barr often does in this place, Mr Stanhope has developed a document that provides the basis for balance for the sustainable coexistence of our native fauna and flora in and of themselves as well as in the context of an urban settlement. The kangaroo management plan sums this up nicely when it says:

> The goals of kangaroo management in the ACT are to:
>
> - maintain populations of kangaroos as a significant part of the fauna of the 'bush capital' and a component of the grassy ecosystems of the Territory; and
>
> - manage and minimise the environmental, economic and social impacts of those kangaroo populations on other biota, grassy ecosystems, ACT residents and visitors.

One of the reasons the plan and the code are so authoritative and so well researched is that, somewhat unusually for the ACT Labor government, there has been a good process of public consultation that has informed the development of the kangaroo management plan in particular. For these reasons, the people of Canberra have largely come to accept the objectives of the plan and the code, to maintain the sustainability of the delicate balance and coexistence I mentioned earlier.

Nonetheless, there are a few in our community who believe that human existence should be subservient to the existence of animals. There is a certain head-in-the-sand approach by some people whose utterly unrealistic ideology is that humans, if they must exist at all, should live somewhere else, wherever that somewhere might be. They do not see that humans and plants and animals have ever been able to coexist in a sustainable manner. They do not see that sustainable coexistence and the maintenance of that delicate balance mean that controls and management strategies are necessary. That is all I intend to say about that small part of our community. Simply, their credibility does not match the excellent program that is in place to manage the sustainable coexistence, that delicate balance.

This motion calls on the Assembly to support the kangaroo culling program as proposed by the Chief Minister and his department. I know that the government and the Liberal opposition support it. It remains only for the rest of the Assembly to come forward and offer their support. Then, as I have said before, this Assembly can, as one, send the people of Canberra a definitive and decisive message that we all support the objective of achieving a sustainable coexistence and a delicate balance.

I turn briefly to the disposal of carcasses that result from the culling program. Here I want to acknowledge and thank the office of the Chief Minister for arranging the briefing that I spoke of before. I took that briefing yesterday afternoon and I covered the issues with the officials in relation to the culling program in some detail. I will add that one of the issues that I was most impressed about was the thoroughness of the briefing and the depth of information that the officials were prepared to give me about the safety issues involved in this cull. I thank officials; I want to acknowledge it here.

I briefed my colleagues on the issue in general terms, and I need to say to the Chief Minister and to the officials that I am entirely satisfied that everything that is possible is being done to ensure the safety of people in the ACT. The operating procedures are thorough, but that does not mean that something cannot go wrong. It is important for us here to plead with people who might want to disrupt this cull to not do so, because the implications would be disastrous.

The aspect of the culling program that is most unsatisfactory is that there is no proposal to develop the commercial opportunities that a culling program might create. There is a market for kangaroo meat and pelts. The ACT government's current policy is to bury the carcasses, and this is a waste. I know that there are difficulties in changing the process. The commonwealth's Environment Protection and Biodiversity Conservation Act sees to that. There are quite onerous licensing processes in order to achieve a licence for the commercial exploitation of the meat and pelts. Further, the ACT's own Nature Conservation Act would require revision. I note that we have been waiting 5½ years for that. This was a 2004 promise of the Stanhope government which was supposed to be delivered by 2008, but we note that we really have not made enough progress.

I want to comment on the amendments that I said we would support—the amendments proposed by Mr Stanhope. In essence, the Greens are saying in their amendments that the government should not promote the development of a new industry in the ACT. I think that that is unsupportable. It is folly for us to be wasting these carcasses. It is also apparent that the Greens have missed the fact that kangaroo carcasses also have pelts, yielding other commercial opportunities.

This is an important matter. It is important for us to reiterate to the community that we support the government's approach on culling kangaroos, but we need to have a better approach to dealing with the carcasses in the future.

MR STANHOPE (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Land and Property Services, Minister for Aboriginal and Torres Strait

Islander Affairs and Minister for the Arts and Heritage) (5.18): I must say that I am very pleased and that I welcome this motion by Mrs Dunne. I acknowledge the comments that Mrs Dunne has made and that are reflected in her motion in relation to the culling of kangaroos and the processes that are now in place to support the culling of kangaroos.

Kangaroo culling is a very fraught issue. It is difficult, as is the culling or killing of any animal. I do welcome the bipartisanship that is reflected in this motion. Indeed, I do acknowledge that over time Mrs Dunne, on behalf of the Liberal Party, has always been prepared publicly to support kangaroo culling and other necessary culling activities that have been undertaken or are undertaken on a regular basis by the ACT government in the management of our parks and nature reserves.

Mrs Dunne, I have always been mindful of the position that you have taken, which does very much reflect the position I take. I must say that I think it is a beacon in terms of the desirability from time to time for politicians to respect and to reflect that there are things that government does that it is not easy for government to do, and things that it would be easy to seek to utilise for political purposes.

I do acknowledge that in relation to culling, most particularly kangaroo culling which we are discussing today, Mrs Dunne has always been very prepared to look objectively at the issue and to speak her mind in relation to that. I appreciate the motion and I take this opportunity to acknowledge that it is a position that Mrs Dunne has, over a number of years now, been prepared to put publicly.

It is a fraught issue. Accepting the attitudes of sections of the community to kangaroo culling and other culling, the government has sought, over time, to refine very much the scientific basis. It has sought to refine it, to seek it out, to seek to explain it and to have the science that underpins the basis of culling as undertaken here in the territory validated. I think it is fair to say that all of the research that we have pursued has been done rigorously and scientifically. It has invariably, if not always, been peer reviewed in terms of having the science substantiated.

It is about balance. It is about protecting ecological communities. It genuinely is. It is about seeking to ensure that the ecological communities that are part and parcel of the ACT are protected. Of course, some of those communities, or parts or aspects of the communities, are very vulnerable and endangered. We are seeking through the kangaroo culling we undertake to protect those ecosystems.

It is the fact that, in terms of research undertaken by Territory and Municipal Services, whilst I think we all accept it is not nice, that it is confronting, that it is regretful and sad, the significant majority of Canberrans have, over time, taken the time to seek to understand, do understand and do accept, I am sure with reluctance, the necessity of kangaroo culling.

Mrs Dunne has today raised, however, another issue, an issue which there has been some discussion around. The heart of the motion really is Mrs Dunne's proposal that we seek to utilise the carcasses of kangaroos that are culled or killed. I must say it is a position that I do have some sympathy for. It is not a position that I have acted on. I

acknowledge that. Mrs Dunne, in raising the issue today, does force me and the government to think about, and certainly to act on, the issue.

I was particularly conscious of it—I acknowledge that I did not respond to the consciousness—having regard to the size of the proposed cull this year, a cull approaching 2,000. I received advice in relation to plans for the disposal. We are constructing or will construct pits. We are simply disposing of almost 2,000 carcasses essentially in landfill. It seems inherently wasteful in relation to a product for which there is potentially another use and another market.

The Department of Territory and Municipal Services has developed the view that it would not wish to see the scientific underpinning or basis for the culling become confused or that we send mixed messages in relation to the reason or the rationale for the culling. I have a preparedness to support at least a review and an assessment of the feasibility of seeking other uses or other disposal methods.

If we accept the research that the department has undertaken in relation to community attitudes to kangaroo culling—the community attitude in relation to culling is now very strongly one of support of scientifically-based culling of kangaroos—there is overwhelming support that on the basis of science and the need to protect ecological communities kangaroos should be culled. It is a position that people do come to with great reluctance, but they understand it and have come to that position.

The department has also done some other research. There have been other surveys which reveal that a majority of Canberrans are also either supportive or very supportive. The surveys reveal that 53 per cent are either supportive or very supportive. A significant proportion of those that are not either supportive or very supportive of carcasses being otherwise used are unsure. They do not have a position. Indeed, 26 per cent of people suggest that they are not supportive. So there is now a majority, a short majority, with a significant percentage—22 per cent—not sure or without a view.

In that context, it is reasonable that we do pursue at least an investigation, that we undertake a study. To that extent, I have circulated an amendment to Mrs Dunne's motion. Mrs Dunne and I have had a conversation on this and Mrs Dunne has indicated that the Liberal Party is minded to support the amendment. It calls on the government to investigate the feasibility of the commercial disposal of carcasses in advance of future culling activity, taking full account of the legislative, regulatory, social, environmental and market issues, and that we report back to the Assembly by the last sitting day of this year.

I do believe that is reasonable and the government is happy to commit to that. I think it is worth our while looking at what feasibly and reasonably might be done in those circumstances. I am mindful that Mr Rattenbury, on behalf of the Greens, has proposed some further refinement. Mr Rattenbury, I understand, does propose to circulate a motion which I think most relevantly provides that the ACT government not develop a commercial kangaroo meat industry. It provides a directive in relation to that.

I am not sure I disagree with that. I must say that I have no strong desire that there be a commercial kangaroo meat industry in the ACT. I am not sure I would support that. I am not minded to pursue it. But I have some sympathy with the position that Mrs Dunne has put. Why would you rule it out when, in the same breath, you would agree for the first time ever to investigate the possibility of alternative disposal methods?

As I say, I am anticipating Mr Rattenbury's speech, but I understand his intention. I am declaring now that the government will support Mrs Dunne's motion with an amendment which I have circulated. For the sake of some cleanness and to reduce technicality, I believe a feasibility study is appropriate.

I believe the motion expresses quite clearly what the government thinks. The government will be supporting Mrs Dunne's motion, with the amendment I propose, and will not, on that basis, support Mr Rattenbury's proposed amendment, even though I do not have any particular issue with it. I personally do not support the creation of a commercial kangaroo industry here, but I also do not oppose it. I prefer to just investigate the issue and make a decision after that investigation. I move the following amendment to Mrs Dunne's motion:

> Omit paragraphs (2) and (3), substitute:
>
> "(2) supports the Government's decision to responsibly manage kangaroo numbers in the ACT's nature reserves; and
>
> (3) calls on the Government to:
>
> (a) ensure accurate information about the conduct of the cull is made available to the community;
>
> (b) ensure that the feasibility of the commercial disposal of carcasses is fully examined in advance of future culling activity, taking full account of legislative, regulatory, social, environmental and market issues; and
>
> (c) by the last sitting day in 2010, report to the Assembly on the progress of this work and arrangements for the disposal of carcasses in future kangaroo culling operations.".

MR RATTENBURY (Molonglo) (5.30): When it comes to Mrs Dunne's motion this afternoon, I am not sure which bit I am more surprised about—the fact that she wrote the motion before she got the brief from the department or the rampant enthusiasm for a cull which she condoned in a speech this evening. I think it is one matter to acknowledge that there is an unfortunate and difficult problem that we face. Coming here and trying to turn this into a political football and challenge others to come out and champion it is quite a different matter. I frankly find it somewhat disappointing.

Mrs Dunne's motion raises three quite separate questions which I would like to address today. Firstly, does this Assembly support this annual cull of kangaroos; secondly, does the Assembly support the provision of accurate information on the

kangaroo culls being made available to the public; thirdly, does this Assembly support the carcasses generated from this cull being disposed of commercially? I would like to speak to all of those points, and I will flag now that the Greens will be moving an amendment to the motion to reflect what we think is a certain lack of clarity in the text which means that this motion does not accurately represent the issue at hand.

On the first point of support for the cull, the ACT Greens have held a view over a number of years that the ACT needed a long-term, integrated management plan for kangaroos in the territory to respond to a number of challenges that face us as an urban community that has a strong interface with our non-urban environment. We proudly call ourselves the bush capital, and there is no doubt that there are some significant land management challenges that come with that. The protection of our biodiversity is one of those.

We hold the view, like many in the community, that a cull of kangaroos to achieve biodiversity objectives in our grasslands and woodlands is a distasteful but necessary measure to protect the biodiversity values of our region. Personally, I find this an extremely difficult issue to have to address, but I am mindful of the fact that difficult decisions need to be taken in regard to these matters. But it is one thing to support management; it is another thing to be enthusiastic about culling, and the Greens are certainly not that. We recognise the real dilemma that is faced here, and it is one that both I and my colleagues have spent quite some time thinking about and continue to research to make sure that we have the best information that we can.

This is not a position we have reached easily or quickly. I must say that each year we are challenged by those who oppose any culling of kangaroos to rethink the position that we have taken. I welcome those challenges, as I think we all should, particularly if they are accompanied by new information as to how we might be able to avoid a cull. We welcomed the government's kangaroo management plan when it came out earlier this year. It is a comprehensive document, well researched and fully referenced. Alongside the grasslands report released by the Commissioner for Sustainability and the Environment last year, it gives a guide to how our jurisdiction will manage this particular species—a species that we love to see around our bush capital, but one that also has significant impacts on other species in our grassland and woodland habitats in particular.

The case has been clearly made that, along with other practices, kangaroo grazing can have a detrimental impact on our grassy ecosystems. Of course, alongside kangaroo grazing is grazing impacts by other animals, mowing regimes, feral animals such as rabbits, the impacts of exotic plant species and the poor use of fire as a management tool to encourage the regeneration of precious habitats. The commissioner's grassland report does a full assessment of the grasslands in the ACT, recommending a range of management measures, and I understand that the government is implementing many of the recommendations in that report.

It is important this happens, because under no circumstances must culling of kangaroos become the centrepiece of our grassland management. I appreciate that it is certainly the most contentious, but we will do well to ensure we discuss it in the context of other actions that are being taken. This is certainly not a war against

kangaroos; rather, an attempt to holistically manage different species in order to protect some that we know are endangered and to protect their ecosystems.

However, we all know there has long been a debate around the science that the ACT government has used to justify these culls. One of the most contentious issues that has been raised with me by those advocating against the cull is that the ACT government has underestimated the carrying capacity of our ecosystems in regard to kangaroos and has overestimated the impact of kangaroos on those ecosystems. I would like to acknowledge these concerns but say that I remain to see firm data that supports this view and that is applicable to the ACT. I am aware that people are putting their minds to this task and to building a greater body of peer review literature on such issues.

While we have accepted the position of the ACT government and the work they have done in the ACT, we encourage them to maintain an open mind about new data and science put forward about macropods, how they behave, what densities are acceptable in different ecosystems and what the options are for the management of kangaroo fertility. I ask them to do this not just because it is good practice, but because it is going to be an important part of the public debate that decision makers stay engaged on these issues, even when they have signed off on a management plan. On an issue such as this, it is not enough to say, "Well, we've got our plan; nothing's going to change now." I am not suggesting that this is the attitude of the ACT government to date; I am simply cautioning against complacency when it comes to these matters.

One of the arguments that kangaroo advocates often tell us as environmentalists is that kangaroos are not a threat to the grasslands and woodlands and that the grasslands and woodlands are much more threatened by the encroachment of urban development, the grazing of farm animals and other human threats. To take this argument to its logical extension implies that, if we let the kangaroos go and stopped encroaching on their space, we would not need to bother with any kind of culling.

I agree that threats to native wildlife and even native flora through the encroachment of human development are massive. It is the single largest threat to biodiversity in this country and has had the single most damaging impact to date. Any urban development removes habitat for the species that once lived there. This is something that has been happening in Australia since white settlement. As that urban development has continued over the centuries, we have seen the numbers of threatened species and habitats increase. We are also seeing greater value placed on those areas that remain as we become aware of the damage we have done. We must address these issues by addressing the ecological values of all species and habitats in conjunction with each other, not assessing the needs of species in isolation from each other or their habitats.

The Greens are not immune to this in any way. Indeed we have campaigned in many places for protection and retention of precious habitats. In the ACT we know that, with the new development going on at Molonglo, there are potential threats to habitats of valuable species, including pink tail worm lizards, raptors and superb parrots. My point, though, is that if you value habitats for all species, we need to campaign to protect habitats and push back against the encroachment of development on areas of value. It is no use just using the opportunity of a kangaroo cull to say that urban encroachment is bad for kangaroos. If the main threat to kangaroos is development then we need to campaign against that development on the merits of that case.

As a community here in Canberra, we have to make decisions about land use. Do we want greenfield urban development or do we want to leave the land in its natural state, and how do we encourage more urban infill rather than greenfields? I know that as the debate around Molonglo continues, we will be engaging in a discussion about which areas are going to be able to be protected as reserved areas and which bits will be, effectively, concreted over. After we have made those decisions then we need to manage our wildlife and domestic animals in a way that protects our natural habitats as best as possible. The reality is that we live in Canberra surrounded by landscape.

When it comes to the provision of accurate information we have no doubt that it is in everyone's interests for the government to be as open and transparent about the provision of information in relation to culls as they can be. Indeed, I will propose an amendment to Mrs Dunne's motion that extends the information that we think should be made available to the public to include not just information about the conduct of the cull but also about the rationale. It is of note that, even with a press release and a fact sheet that was produced this time around, there are still questions that the public wants answers to—questions, frankly, that I would also like answers to. For example, what are the current population numbers in each of our reserves? How many animals will be culled in each of our reserves? What is the current understood density of kangaroos in those areas, given that numbers of kangaroos per hectare are the key determinator on which the kangaroo management plan is based?

This leads me to another amendment that I will propose to Mrs Dunne's motion, which is to remove clause 1(d). This is a petty clause that seeks to denigrate those who oppose the government's view and who are exercising their right to voice their opinions on an issue about which they care passionately. This clause, in that it does not name names, seeks to malign all of those who oppose the government's view. I would suggest that the government would not seek to reinforce this position. In fact, I trust Mr Stanhope will support this suggested amendment by the Greens.

It is not in the government's interests to remain closed to proposals and thoughts from the community, just as it is not in the community's interests for the government not to provide accurate information to the public. I hope that the government will support the proposed amendment to remove this clause, and I hope that Mrs Dunne might also reconsider the clause, given that it seems unnecessary for us as a legislature to malign community opinion, no matter what form it comes in.

With regard to the disposal of carcasses, as we are all aware, the government's current practice is to bury the carcasses when kangaroo culls are undertaken. I suspect, and it has become clear in the discussion, that what Mrs Dunne's motion goes to here is that there is come consternation that, having undertaken a cull of the kangaroos in the territory for biodiversity reasons, it seems wasteful for us not to utilise the carcasses in some way.

I also have some sympathy with this view, though I would also note that waste occurs in regard to the use of our resources all of the time in many different places, and this is perhaps not the most galling demonstration of resource waste in the ACT. For a start, we are talking about a relatively small number of kangaroos and potentially a

number that will get smaller in the next few years as the management plan is implemented.

Culling of kangaroos in the ACT comes from a place of biodiversity management. We must be very clear about that. It is a slippery slope sometimes when we build commercial operations around the edges of non-commercial practices where the proverbial commercial tail then starts to wag the dog. We have seen that industries can quickly build a business model around a public policy objective and then cry foul when the public policy objective is no longer required and their business interests are affected. It is this situation that the Greens are keen not to see established.

Any utilisation of kangaroo carcasses generated through a cull that is undertaken for land management reasons must be undertaken with a clear understanding that utilisation of carcasses only comes after biodiversity outcomes are fulfilled. Any contract that the ACT government may enter into with a commercial operator must have flexibility built into it that reflects these priorities. Obviously, the ACT cannot support a commercial kangaroo meat industry and should not, and we have proposed an amendment that makes this clear. We do not have the populations to establish such a thing, and the commercial imperatives mean that it would not be viable. Our culls are annual and seasonal, not ongoing. Therefore, any supply is extremely limited.

Indeed, this debate is really about utilisation of a resource that appears to be going to waste, not commercial disposal at all. It is for this reason that I have proposed the amendments that change the language originally put forward by Mrs Dunne. The term "commercial disposal" gets us nowhere. We can commercially burn or even commercially bury, but the point I think she is trying to make is that the carcasses could be utilised. I am less concerned about whether this is even an arrangement that delivers much commercial benefit. Should the ACT be selling the carcasses or just ensuring that they are not wasted? I think it is the latter. If we were to give them away, would that offend Mrs Dunne? I suspect not.

In summary, the Greens support an integrated approach to the management of kangaroos in the territory. This must occur against a backdrop that acknowledges all biodiversity values but also acknowledges the broad range of threats that our grasslands and woodlands face. We do recognise the frustration that carcasses appear to go to waste when culls are undertaken, and we offer cautious support for the government to investigate how this may be resolved for future culls. We think the notion of pursuing commercial disposal is fraught with problems and that the ACT should absolutely not move towards the development of a commercial kangaroo meat industry.

Before I sit down and Mr Smyth starts, I would move the amendment circulated in my name which amends Mr Stanhope's proposed amendment:

> Omit paragraphs (3)(a) to (3)(c), substitute:
>
> "(3) (a) ensure accurate information about the rationale and conduct of all culls is made available to the community prior to the annual commencement of culling;

(b) ensure that the ACT does not develop a commercial kangaroo meat industry;

(c) ensure that, in the context of culls being undertaken for biodiversity purposes, the feasibility of utilising kangaroo carcasses for consumption is fully examined in advance of future culling activity, taking full account of legislative, regulatory, social, environmental and market issues; and

(d) by the last sitting day in 2010, report to the Assembly on the progress of this work and arrangements for the utilisation of carcasses in future kangaroo culling operations.".

I have another amendment, but I will move that subsequently.

MR SMYTH (Brindabella) (5.44): Madam Deputy Speaker, it is interesting that this debate has been held in quite a calm manner except for the opening statement from Mr Rattenbury, where he described with great passion how Mrs Dunne was attempting to make this a political football. In fact, of all the debates that have been held in this place probably since the 2008 election, this is the one that has been approached in the most calm manner, and I commend the members for that. So I am quite taken aback by the allegation that it is a political football. In some ways, it is a motion where people seem to be working together to make something which I think for all of us is an unpalatable situation operate as smoothly as possible. Perhaps in the future there is a lesson for all of us.

Mr Rattenbury accused Mrs Dunne of being enthusiastic about this whole notion. I think he is wrong. He then accused us of supporting the annual cull. There is no annual cull. Indeed, the motion before us specifically says at paragraph (2) that we support the government's decision to conduct this kangaroo cull. It does not say "all culls"; it does not say the "annual cull"; it says "this cull". Indeed, when you read paragraph (3) in that light, it is about discussing how the carcasses from this cull are disposed of.

I do not see any talk about establishing somewhere in the ACT a commercial kangaroo carcass food industry, as Mr Rattenbury has attempted to assert. I think it is unfortunate that he wants to take that view and try and portray this side as somehow being rabidly enthusiastic about this—and therefore by implication perhaps even the government is, because they are agreeing with the motion—and that he is the sole defender and protector of kangaroos in the ACT. I think that is unfortunate and unfair, because it is clearly not the way in which this motion is being handled by all except for Mr Rattenbury.

It is a tough issue; it is an emotive issue. I remember when I was the minister with responsibility for this issue, it was always a tough call to issue the licences for the culling of kangaroos. I do not think anybody does it willingly. You do it on the advice that you receive from the department, the experts that support the department and the Animal Welfare Advisory Committee. I always enjoyed my meetings with the committee, and I found them to be most professional and most considered in their views.

In that regard, as Mrs Dunne has indicated, given that the Chief Minister has moved his amendments, the opposition will be supporting the government's amendments. At this time, we will not be supporting the Greens' amendments. That being said, with Mr Stanhope's amendment, there is a slight addition that needs to be made in paragraph 3(b) of an extra word, "ensure", so that it reads correctly, but I understand that has been given to the clerk and will be taken into account when the motion is passed.

Without a doubt, when this cull takes place, there will be pelts from the animals and meat from the animals for which there are markets. I have heard of one estimate that, of the number of animals to be killed, something in the order of $150,000 worth of pelts and meat would be made available by the cull. The question is: what do we do with it? Do we simply bulldoze a hole in the ground and waste it, or do we make something out of a very poor situation—which nobody is willingly going into—and make some use of the materials that are presented out of this unfortunate circumstance. This is simply all that Mrs Dunne is saying—let us dispose of them commercially rather than just wasting them.

It is not rocket science. It is an unfortunate position we find ourselves in, but there are some options that we can discuss. That we cannot do it this year, as indicated by the amendments, is something that we have now discovered, but perhaps it is something that needs to be taken into account. As the Chief Minister has said, by the last sitting day in 2010, he will report to the Assembly on the progress of this work. I commend the motion, as it may well be amended, to the Assembly.

Question put:

> That **Mr Rattenbury's** amendment to **Mr Stanhope's** proposed amendment be agreed to.

The Assembly voted—

Ayes 4		Noes 11	
Ms Bresnan	Ms Le Couteur	Mr Barr	Mr Hanson
Ms Hunter	Mr Rattenbury	Ms Burch	Mr Hargreaves
		Mr Coe	Ms Porter
		Mr Doszpot	Mr Smyth
		Mrs Dunne	Mr Stanhope
		Ms Gallagher	

Question so resolved in the negative.

MR ASSISTANT SPEAKER (Mr Hargreaves): Given that the result of that division has been determined, the question now is that Mr Stanhope's proposed amendment be agreed to.

MR RATTENBURY (Molonglo) (5.55): I seek leave to move a further amendment circulated in my name, which is with the clerk now and is coming around quite shortly. If I am granted leave, I will speak to it while it is being circulated, briefly.

Leave granted.

MR RATTENBURY: I move:

> Omit paragraphs (3)(a) to (3)(c), substitute:
>
> "(3)(a) ensure accurate information about the rationale and conduct of all culls is made available to the community prior to the annual commencement of culling;
>
> (b) ensure that, in the context of culls being undertaken for biodiversity purposes, the feasibility of utilising kangaroo carcasses for consumption is fully examined in advance of future culling activity, taking full account of legislative, regulatory, social, environmental and market issues; and
>
> (c) by the last sitting day in 2010, report to the Assembly on the progress of this work and arrangements for the utilisation of carcasses in future kangaroo culling operations.".

The next version of my amendment is almost identical to the previous one except it removes paragraph (b) of my previous one, which seemed to be the one that was a point of concern for some members. This new version picks up on Mr Stanhope's amendment, which I largely support, but paragraph (a) seeks to insert that accurate information should also be made available about the rationale as well as the conduct of the culls and that it should be done prior to the commencement of the cull. The second change is that paragraph (c) inserts that the context for which culls are being undertaken is for biodiversity purposes. It simply adds that, in the context of looking at commercial disposal options for the carcasses, we are reminded that this is in the context of undertaking a biodiversity-driven kangaroo management exercise.

Question put:

> That **Mr Rattenbury's** amendment to **Mr Stanhope's** proposed amendment be agreed to.

A call of the Assembly having commenced—

MR ASSISTANT SPEAKER (Mr Hargreaves): Mr Rattenbury, can I clarify with you, please, that the amendment that we are now voting on is your motion to amend 3(a) to 3(c), that page, which has three parts to it?

Mr Rattenbury: Yes.

MR ASSISTANT SPEAKER: Not the one which has "omit 1(a)" and has two parts to it?

Mr Rattenbury: Correct.

The Assembly voted—

Ayes 4		Noes 11	
Ms Bresnan	Ms Le Couteur	Mr Barr	Mr Hanson
Ms Hunter	Mr Rattenbury	Ms Burch	Mr Hargreaves
		Mr Coe	Ms Porter
		Mr Doszpot	Mr Smyth
		Mrs Dunne	Mr Stanhope
		Ms Gallagher	

Question so resolved in the negative.

At 6 pm, in accordance with standing order 34, the debate was interrupted. The motion for the adjournment of the Assembly having been put and negatived, the debate was resumed.

Sitting suspended from 6 to 7.30 pm.

MR RATTENBURY (Molonglo) (7.30), by leave: I move:

> Omit paragraph (3)(a), substitute:
>
> "(a) ensure accurate information about the rationale and conduct of all culls is made available to the community prior to the annual commencement of culling;

MR ASSISTANT SPEAKER (Mr Hargreaves): Has that been circulated, Mr Rattenbury?

MR RATTENBURY: It has been circulated. The dinner break has given us an opportunity to have a conversation perhaps and catch up on some of the confusion that was in place just before the break.

MR ASSISTANT SPEAKER: Thank you, Mr Rattenbury. You have the floor.

MR RATTENBURY: Very briefly, this simply seeks to add to Mr Stanhope's amendment in, I think, a non-conflicting manner a few further words that suggest the government make information available to the committee prior to the commencement of the cull and the rationale for the cull. It is probably in the spirit of what was intended and just spells it out a little more clearly.

MRS DUNNE (Ginninderra) (7.31): Very briefly, while I understand the import of this, the Canberra Liberals will be opposing this—we will not be calling for a vote, because I can count—mainly because this is presumptuous on a couple of grounds. It assumes that there will be an annual cull and the spirit of the motion does not presume that. And I think that it is imprudent to flag, before a cull is about to commence, that you are about to commence a cull. I think the work done by the Chief Minister and his officials the other day in closing the reserves and then announcing the cull was the right thing to do and I think this goes in the opposite direction.

MR STANHOPE (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Land and Property Services, Minister for Aboriginal and Torres Strait Islander Affairs and Minister for the Arts and Heritage) (7.32): I must say I was reasonably comfortable with the motion as it was. Sometimes I feel we over-egg motions and duck from shadows we make ourselves, from our own imagining. But Mr Rattenbury has moved the amendment. I have some sympathy with Mrs Dunne's position. Then again, what Mr Rattenbury is proposing is quite sensible. The government will support it.

But what has to be said is that Mrs Dunne at one level is quite right. It is in everybody's interest for there not to be demonstrators running into reserves when there is a cull underway. We have experienced this in the past.

We do now seek to manage this issue in a way that avoids conflict, that avoids potential—we did have, most particularly on the Googong foreshore, demonstrators running around in the dark, in the middle of the night, in a reserve in which there were contracted kangaroo cullers with deadly weapons. Demonstrators were running amok. And we do now seek to manage this issue in a way that avoids that potentiality. But I think we can continue to arrange culls in a way that is safe. I have no desire or interest in withholding any information in relation to culling, and the government will support the measure.

Mr Rattenbury's amendment to **Mr Stanhope's** proposed amendment agreed to.

Mr Stanhope's amendment, as amended, agreed to.

MR RATTENBURY (Molonglo) (7.35), by leave: I move:

> (1) Omit paragraph (1)(a), substitute:
>
> "(a) Government's decisions to conduct a kangaroo cull in ACT reserves for biodiversity management reasons;".
>
> (2) Omit paragraph (1) (d).

I will speak to this one briefly. There are two essential elements in this. The first is 1(a). It is simply a brief substitution which brings the focus back on the conduct of a cull which is taking place in the context of diversity management reasons. I think that is understood from the debate. I think that is the discussion that we are having. I think it is the way in which the government has approached the cull. It is the basis on which the Greens have not opposed the cull, because it is set in a broad biodiversity context. And I feel there is some value in acknowledging that at the start of the motion.

The other is to omit 1(d). I think it is unfortunate that Mrs Dunne has used the context and the privilege of the Assembly to essentially malign community organisations. It may be that Mrs Dunne disagrees with the opinion of those community organisations, which does appear to be the case, and it may be that others of us disagree with the view they take. But as I said in my speech, I also think it is important that we continue

to listen to opposing views, that we continue to hear alternative cases, and I do not believe that it is appropriate for us, as members of the Assembly, to lack the grace to acknowledge that.

I am surprised at the way this has been framed. I think it is beneath this Assembly to make this sort of observation. I think this motion would be a better motion and a motion which is far more appropriate if we simply delete paragraph (d).

MR STANHOPE (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Land and Property Services, Minister for Aboriginal and Torres Strait Islander Affairs and Minister for the Arts and Heritage) (7.37): Very quickly, the government is happy to support these two proposals. I must say, again, I do think there is a degree of pedantry in the proposal in relation to (a), but if it provides some comfort for the Greens party I am happy, in the interests of being gracious, to accept that. I must say I do think it is a little unnecessary but I am happy to accept it.

In relation to Mr Rattenbury's concerns about paragraph (d), again I have to say we will support the Greens' amendment but what Mrs Dunne has proposed is not untrue.

Mrs Dunne: It is not untrue.

MR STANHOPE: I suppose—

Mrs Dunne: You could stick to your guns.

MR STANHOPE: I will. Actually, on the rationale and the way that Mr Rattenbury provides it, I think we can be gracious; we can accept the diversity of views. I am frustrated from time to time by misinformation campaigns. I find it deeply offensive and insulting, personally, as the person to whom much of the angst is directed, that I have, over the last three years, constantly from those that oppose kangaroo culling, had to face, through letters to the editor, through press releases, through media interviews, charges that all, I, the government, was interested in in culling kangaroos was selling land.

That is misinformation. In fact, it is untrue. They are lies. Not one single kangaroo has been culled in my time as Chief Minister with a view to advancing the potential sale of land—not one kangaroo. Every time that an opponent of kangaroo culling says that, they are doing precisely what Mrs Dunne is suggesting they are doing. It is not just misinformation, they are downright lies. And I find them offensive. I take it on the chin. I turn the page.

Then again, Mr Rattenbury invites us to turn the other cheek, essentially. We are legislators. We have the capacity to show grace and I am prepared to show grace. But in showing that grace and agreeing to remove this, I do not for one minute suggest that it is not true. It is true. Opponents of culling, from time to time, engage in quite outrageous tactics and language, at times outrageous and defamatory language and tactics. And I am happy to say here that, whilst I agree that we can rise above it—we will turn the other cheek, we will agree to remove the paragraph—do not think, for one minute, that I do not think their behaviour at times is simply outrageous.

MRS DUNNE (Ginninderra) (7.40): In speaking to this, unless I get the indication that anyone else wants to speak again, I choose to close because the comments that I would make would be the comments that I would make in closing. And can I ask your indulgence, Mr Assistant Speaker, in that when we get to vote on this can we divide these two issues? I do not have a strong view about (a) but I have very strong views about (b). And I will tell you why.

MR ASSISTANT SPEAKER (Mr Hargreaves): Mrs Dunne, before you proceed, with respect, I think if you wish to have the question divided that needs to be done at a time, which is about now.

MRS DUNNE: In accordance with the standing orders, could the question in relation to Mr Rattenbury's amendments to my motion be divided when we come to vote on them?

Ordered that the question be divided.

MRS DUNNE: Thank you. I close the debate, if everyone is agreeable. Mr Stanhope is absolutely correct. The reason that I am opposing the omission of paragraph 1(d) is simply that there is disinformation out there. We heard it on the radio the other day, when someone who was opposed to the cull went out and said that the code of practice for culling kangaroos in the ACT said X, Y and Z when it does not. And that sort of thing happens over and over again. They use emotive language. What they were saying was that we allow people to beat joeys around the head, beat them to death around the head, and that is not correct.

The code of practice does not allow that but somebody was able to get on the radio and say that. Luckily, the journalist who was interviewing her was able to challenge that because they obviously had access to the code of practice.

But it is not just that. Mr Stanhope is right. I know that Mr Stanhope has been pilloried and has been threatened. But it is not actually about us. We get paid to do that. That is what we are paid for. But officials who work in the Department of Territory and Municipal Services do not get paid for that. It is the case that recently, at the instigation of the commissioner for the environment, a webpage had to be taken down because it contained a picture of the commissioner for the environment and other officials, with encouragement to go out and to abuse these people in various ways.

That is unacceptable and that is what I am talking about there. If we remove this, we actually say to people that it is all right to conduct a public debate in those terms. It is all right to lie. It is all right to threaten public officials who are just doing their job. Some of those people I have worked with for 15 years and I have great regard for their scholarship and their learning and the work that they do. They should not be put in a place where their names and addresses and photographs go up on a webpage and people are encouraged to take reprisals against them.

It is worth putting on the record that that is what happens. If the Greens support that, they should come out and say it, because that is what has happened and that is the

motivation for this part of the motion. That is the motivation for this. But there are untruths about the culls, there are incitements to act badly, dangerously, recklessly and there are incitements to take reprisals against public officials—not Mr Stanhope and me but people who are paid public servants whose anonymity we should be able to guarantee and whose safety we should be able to guarantee. Therefore, I am opposing this part of the amendment.

MR ASSISTANT SPEAKER: The question is—sorry, Mr Rattenbury.

Mr Rattenbury: I was seeking leave to speak again, having been verballed by Mrs Dunne.

MR ASSISTANT SPEAKER: I am sorry, Mr Rattenbury, but Mrs Dunne has in fact closed the debate. If you have an issue, with respect, you might like to take it up somewhere else. I would dearly like to give you leave or to offer leave but I do not think I have it within the Speaker's power.

Mr Rattenbury: You are right, Mr Assistant Speaker. I accept your ruling.

MR ASSISTANT SPEAKER: Thank you very much for that. I will put Mr Rattenbury's amendments to Mrs Dunne's amended motion separately.

Amendment (1) agreed to.

Amendment (2) agreed to.

Motion, as amended, agreed to.

Companion animals

MS PORTER (Ginninderra) (7.46): I move:

> That this Assembly:
>
> (1) recognises the need for guidelines for the breeding and selling of companion animals in the ACT; and
>
> (2) welcomes the ACT Government's steps to develop a mandatory code for the breeding and selling of animals in the ACT.

I am pleased to rise in this place today to speak once again on an issue that is of deep concern to me. I am happy to report that the government is taking significant steps in respect of this issue and I am delighted to be able to make a contribution to this discussion.

As members would be aware, I raised the issue of responsible pet ownership in this place recently after observing first hand the results of animals being surrendered to the RSPCA. From discussions with stakeholders in relation to animal welfare, it is clear to me that under our current arrangements it is difficult for the ACT to tackle the

possible disconnect between supply and demand and the changing market environment.

It was recently reported that approximately 200,000 unwanted companion animals are euthanased every year in Australia. I am confident that my Assembly colleagues will agree that this is an unacceptably high number. Fortunately, both the ACT RSPCA and Domestic Animal Services have a policy of not euthanasing animals unless they are too ill, injured or displaying intractable behavioural problems. This means, though, that these organisations can experience periods when their facilities are over-extended, as they were over the Christmas holidays. Right now, for example, the RSPCA is unable to take any surrendered dogs. It has unfortunately had to institute a waiting list. Obviously this situation needs attention.

I am pleased to announce that, after further consultation, I plan to table a discussion paper examining issues involving the breeding and selling of companion animals in the ACT. The discussion paper will consider a range of issues and will invite comment on a range of options to address community concerns. Feedback from this paper will contribute to the development of a mandatory code for the breeding and selling of companion animals in the ACT. This has the potential to be the ACT's first ever mandatory code and a watershed moment for the welfare of companion animals in this jurisdiction and quite possibly in Australia.

I would like to acknowledge the excellent work of the government's Animal Welfare Advisory Committee, AWAC, towards the development of a draft voluntary code, a code of practice for the sale of animals in the ACT. The continuing rise in the number of companion animals surrendered in the ACT, combined with increasing internet sales, indicate that it is time for the government to look again at this issue to ensure that it is continuing to support best practice when it comes to animal welfare and to ensure that the standards, guidelines and processes put in place to protect the welfare of companion animals are effective.

A number of proposals will be considered in the discussion paper that will provide an ethical and humane framework to guide the breeding and sale of companion animals in the ACT. Proposals will also be considered to develop a process for information sharing that will support greater compliance in respect of desexing and safeguarding the health and wellbeing of companion animals.

Here in the ACT we are faced with a unique set of circumstances that contribute to the complexity of this issue. It is likely that a large number of companion animals that are purchased by ACT residents are bred outside the ACT. For instance, the internet is playing a more significant role in relation to purchasing pets than ever before. Pet shops are only a small player in the sale of companion animals. For their exposure, pet shops are the player that is in many ways most open to public scrutiny.

I anticipate that a mandatory code will ultimately apply to all sellers of companion animals and will seek to apply practical measures that cover sales advertised on the internet or in print media as well as in pet stores.

As I said, this unique set of circumstances impacts on the government's capacity to regulate the breeding of companion animals purchased by Canberrans. It results in the high number of discarded animals dealt with by Canberra's pounds and shelters.

As I said, I have spent a considerable amount of time looking into this situation. I have had discussions with the Minister for Territory and Municipal Services and his department, with the RSPCA, and with the pet industry and its representatives. I have also closely considered the work of AWAC.

Consistent with this government's fresh approach to this issue, I am considering what can be done in respect of licensing systems for breeders. I believe that there is room to improve what criteria are considered and met before a person or entity is granted a licence to keep an animal entirely for breeding purposes. The circumstances of the breeder and the premises where the animals will be bred of course require scrutiny, but I am sure there are other issues that also should be considered. For example, before granting such a licence should standards in breeding practices be met—such as the frequency of breeding, genetic considerations and the age of the breeding animal? I do not believe that such licences should exclude animals that have been crossbred. The great Australian farm-bred working dog will not be legislated out of existence. It should not be legislated out of existence.

I therefore agree with what was asserted in the documents circulated by the Australian Veterinary Association entitled "Sale of pets through pet shops", which stated that the future of crossbred dogs is at risk if breeding is restricted to registered breeders only, as they predominantly breed purebred dogs.

However, greater accountability in the practice of breeding companion animals should be an outcome. A proposal I have considered is that a breeder's licence number should be used in all commercial activities such as advertising and at the point of sale. I acknowledge that regulation of the sale of mammals through print and the electronic media is difficult to regulate. That is not to say, however, that steps cannot be taken to limit the ability of possible illegal breeders to ply their trade unregulated through such media.

Therefore, another proposal I am keen to explore is legislation to prevent the publication of advertisements appearing without the breeder's specifics, including the breeder's identification number. Already certain industries are regulated by the Office of Regulatory Services, and traders are expected to follow laws relating to fair trading behaviour. I believe that the regulation of breeding and selling of animals would be more efficient if a licensed breeder was not allowed to publish an advertisement relating to the business carried out under that licence unless the breeder specifies in the advertisement that the breeder is a licensed breeder as well as giving the address of the place or places of breeding.

I believe that there are obvious potential benefits in better information-sharing systems between vendors, veterinary practitioners and the government regulator. For instance, there could be improved data collection and ultimately compliance on issues such as mandatory desexing, compulsory vaccinations, microchipping and registration. Veterinary surgeries could use such a system to alert the regulator if owners do not comply with their obligations to desex, and perhaps even vaccinate, their companion animals.

Introducing such a system would be a clear message to prospective owners of companion animals. Pet ownership is a privilege that comes with a responsibility—a responsibility to care for the wellbeing of your pet. As I said in March when I stood in this place to speak on the importance of responsible domestic animal ownership in the ACT, I believe there is further work to be done to encourage improved responsible pet ownership.

Point-of-sale pet registration is a deceptively small way in which a greater sense of responsibility would be encouraged. The provision of schedules at point of sale for desexing and vaccination schedules—by which appointments can be made, reminders sent and further follow-up made—might also play a part. In my opinion, basic obligations such as registration, desexing, microchipping and vaccination represent the most basic level of commitment of an owner to their pet.

An enforceable code that ensures that only cats and dogs owned by individuals or organisations with breeders licences will be able to be kept entire seems critical for the number of companion animals available on the market in the ACT and the circumstances under which they are sold. Given the extent of the problem, I cannot see any justification for allowing those breeders without a breeders licence to keep entire companion animals.

The RSPCA has data that indicates that mandatory desexing legislation in the ACT has had a limited effect on the number of unwanted cats it receives. Further measures to ensure compliance here may help to address this anomaly. As cats can become pregnant by four months of age, I would suggest that the mandatory code should compel an owner to desex their cat quite soon after its purchase and that a desexing appointment should be booked at the point of sale. Point-of-sale payment for the procedure, possibly included in the sale price of the animal, should be considered as a measure to remove subsequent financial disincentives for compliance.

I note that the recently recommended code of practice for the sale of animals in the ACT not from saleyards advises that dogs and cats must be vaccinated prior to sale. For instance, cats must be vaccinated prior to sale for feline infections, enteritis and feline respiratory disease. However, worming and other vaccinations further into the animal's life are also important in maintaining a companion animal in good health.

Another concern I have is that if a cat is unable to be identified this means that a lost cat cannot be returned home. According to a recent report from Animals Australia, only five per cent of cats, compared with 70 per cent of dogs, are reclaimed from shelters. From a cat management point of view, microchipping is a fundamental tool. Microchips are permanent and are unable to be altered; allowing shelters to return cats to their owners also facilitates regulation of desexing schedules. It is very distressing for people when they lose an animal; this is a very good way of preventing that loss from being played out, with people never seeing that animal again. This is fundamental to what we are trying to achieve here.

If regulations depend on a system of information sharing between vendors, veterinary practitioners and the authority responsible for compliance, this system will depend on effective registration of the companion animals. I have used this opportunity today to

put forward a number of proposals that I believe warrant further consideration. The Animal Welfare Advisory Committee has provided an important basis for this work through its efforts to develop a voluntary code for the sale of animals other than from saleyards.

The next step is to develop a mandatory code. The discussion paper that I will table in the coming months will play an important role in this. Obviously, there is a lot of work to be done yet. I look forward to the important and continued consultation that I will be having with industry and with the community in relation to this matter. I commend the motion to the Assembly.

MR HARGREAVES (Brindabella) (7.58): I move:

> That the debate be adjourned.

Ms Le Couteur: Mr Speaker, I want a chance to debate the adjournment. I seek leave—

MR SPEAKER: Normally this is a question that should be put immediately. The Assembly can grant Ms Le Couteur leave if it wishes. Does the Assembly wish to grant Ms Le Couteur leave?

Leave not granted.

Debate adjourned to the next sitting.

Hospitals—waiting lists

MR HANSON (Molonglo) (8.00): I move:

> That this Assembly:
>
> (1) notes that:
>
> (a) the Australian Institute of Health and Welfare Australian Hospital Statistics 2008-09 report released on 17 June 2010 shows that elective surgery waiting times in the ACT are the longest in Australia;
>
> (b) the report shows that since the previous report was released in 2009:
>
> (i) the median waiting time for elective surgery in the ACT (days waited at the 50th percentile) has worsened from 72 to 75 days, which is 31 days longer than the national average of 34 days;
>
> (ii) the length of time that the majority of people have been waiting for their elective surgery in the ACT (days waited at the 90th percentile) has worsened from 372 to 378 days, which is 158 days longer than the national average of 220 days; and
>
> (iii) the percentage of people who have waited more than a year for elective surgery in the ACT has worsened from 10.3% to 10.6% which is more than three times the national average of 2.9%;

(c) patients waiting for surgery that should be completed within 60 days (Category 2A) are included in the numbers of people who have been waiting for over a year;

(d) allegations have been made that serious mistakes were made and lists were being deliberately manipulated after an elective surgery patient was downgraded from Urgent Category 1, requiring surgery within 30 days, to Semi-Urgent Category 2A, requiring surgery within 60 days;

(e) an elective surgery patient has alleged that he was informed by ACT Health staff that in the case of elective surgery patients requiring urgent elective surgery, that "anyone who isn't operated on in the 30 days, the hospital downgrades";

(f) the ACT President of the Visiting Medical Officers Association has alleged that the practice of downgrading urgent elective surgery patients who cannot be seen on time is "an illegal stunt that's done by the administration to try and make their figures look better"; and

(g) the community has lost confidence in the Minister's ability to effectively manage elective surgery in the ACT and believes that the Government is not doing enough to reduce waiting times for elective surgery;

(2) calls on the Minister to provide to the Assembly by close of business on 24 June 2010:

(a) the number of elective surgery patients in the ACT who in the last 24 months have been downgraded from Urgent Category 1 to a lower category;

(b) for each case where a patient was downgraded:

(i) the details of how long the patient had been on the waiting list as an Urgent Category 1 patient on the day that they were downgraded;

(ii) an explanation of why each patient was downgraded from Urgent Category 1; and

(iii) an explanation of who initiated the decision or the request to downgrade the patient, that being either the patient's doctor or an ACT Health official; and

(3) calls on the Minister to immediately explain to the Assembly why the ACT has the longest waiting times for elective surgery in the nation and why the waiting times have deteriorated under her administration.

I rise to talk about a very serious issue—that is, our elective surgery lists and the management of those lists here in the ACT. The motion is in two parts. The first relates to the appalling waiting times that we experience here in the ACT and the second relates to whether those lists are being manipulated in any way to make it appear that the patients under the urgent category 1 are, in fact, all being treated within the 95 per cent time limits that are being alleged or whether they are being managed by ACT Health to make them appear better.

The statistics in the Australian hospital statistics report 2008-09 that were released by the Australian Institute of Health and Welfare on 17 June actually provide a comprehensive assessment of not only where we sit with our elective surgery lists but also how they have declined in recent times. Elective surgery lists are not the only problem that we have and they are not the only problem reported on in that report.

We are all aware of the problems that we have with GPs, with the number of public hospital beds we have, with emergency departments and so on. But I think many hundreds of Canberrans who have been reading the papers lately are aware of the problems of people like Allan McFarlane and David Wentworth who have been waiting an inordinate amount of time for their elective surgery. They will be questioning what is going on.

My motion notes that the report shows that since the previous report was released last year, the median waiting time for elective surgery in the ACT has worsened from 72 days to 75 days. So things are declining. Things are getting worse, and that is 31 days longer than the national average waiting time of 34 days. It is not only the worst but it is getting worse. It refutes the government's assertions that they are working on these lists and making them better.

My motion notes also that since the previous report the length of time that the majority of people have been waiting for elective surgery—it is at the 90th percentile, Mr Speaker—has worsened from 372 days to 378 days, which is 158 days longer than the national average of 220 days. It is not just the median wait list. The government needs to explain and the minister needs to explain why it is that the majority of people are now waiting such a long time—158 days longer than the national average.

If you compare it with Western Australia, the only Liberal state, it is 174 compared with the ACT figure of 378. That is 204 days longer that the majority of people are waiting for elective surgery here in the ACT compared to WA. It is not quite as long as Katy Gallagher takes off for leave each year but it is a significant period of time.

The report also notes that since the previous report was released in 2009 the percentage of people who have been waiting for more than a year for their elective surgery has worsened from 10.3 per cent to 10.6 per cent. This is more than three times the national average of 2.9 per cent. The government's excuse—that they have the worst median wait list in the country because they are focusing on the longer wait patients—is utterly refuted by the fact that we not only have the greatest percentage of patients waiting over a year but also that that percentage has actually increased since this time last year.

I have used a comparison with WA before, which is two per cent. New South Wales is 2.5 per cent. If people think that WA is bad, and I think most people think that New South Wales is appalling, you should note that it is a four times greater percentage here in the ACT than it is in New South Wales.

Elective surgery waiting lists can cause some confusion but let us make it very clear what they are. Category 1, urgent, should be done within 30 days. Category 2,

semi-urgent, should be done within 90 days. Category 3, non-urgent, should be done within 365 days. They are the nationally reported times. ACT Health manages internally, in addition to those, a 2a list, within 60 days, and a 3a list, within 120 days. But there are patients who are meant to have been receiving their semi-urgent surgery, category 2a, within 60 days, who were included in those hundreds of people who have been waiting for over a year. Although there is a lot of talk about the statistics, when you look at the human face of this, you see people like Allan McFarlane whose story was reported in the paper.

This is a man who has intellectual disabilities. He is 75 years old. He has been waiting over a year for surgery that was meant to have been had within 60 days. As his carer, Ms Arrold is reported to have said that she is:

> … at a loss to understand why Mr McFarlane, who moved into aged-care accommodation last year, is still waiting for surgery.

Ms Arrold went on to say:

> I just thought, you know, we've got lots of money to spend on bicycle paths and bits of art and things like that, but we can't get him in to have an operation.

It is a good question she raises: why is it that Allan and so many like him who are meant to have had surgery many, many months ago are still waiting on a list? But I am glad to say that Allan did receive a phone call literally 10 minutes after his story was raised on Triple 6 and was told a date for surgery.

What we are seeing here is management by media. The only time he gets told, "Okay, we have got a time for you," after over a year of waiting on the list is literally 10 minutes after his story gets raised on Triple 6. If it was not so absolutely disgraceful it would be laughable. Allan's case represents simply another breakdown not only in the management of elective surgery lists but also a breakdown in communication.

Allegations have also been made that either mistakes were made or lists have been deliberately manipulated after an elective surgery patient, David Wentworth, was downgraded from urgent category 1, requiring surgery within 30 days, to semi-urgent category 2a, requiring surgery within 60 days.

This case was reported in the media also. Again, David Wentworth was contacted shortly after he went to the media and he was given a date for his surgery. But he has made some very serious allegations. They relate to being downgraded from category 1. He was initially listed as a category 2a patient, which meant he required surgery within 60 days, but tests indicated that his case was more urgent than previously thought. The *Canberra Times* reports:

> After being told his operation would probably take place at the end of May, Mr Wentworth rang ACT Health two weeks ago to inquire if a surgery date had been set.
>
> They said, "Oh you're being downgraded." … I asked why I wasn't informed and the comment was that anyone who isn't operated on in the 30 days, the hospital downgrades.

> "I was absolutely flabbergasted. I was a bit upset over this because I wasn't informed."

Peter Hughes, who is the ACT President of the Visiting Medical Officers Association, is reported as saying:

> … he believed administrative staff in Health had been shifting elective surgery patients to lower priority categories than the ones nominated by their doctors.
>
> "This is an illegal stunt that's done by the administration to try and make their figures look better … It does happen. There's no doubt about it."

These are very serious allegations that are being made by a patient and by the President of the Visiting Medical Officers Association. The question is: who is telling the truth? The question is: are lists for category 1 patients, urgent lists, being downgraded? If so, why? Are they being downgraded for clinical reasons—because a doctor says, "Your numbers have gone down. Your risk of getting prostate cancer has lessened; therefore, I will downgrade you from category 1 to category 2"? Or is ACT Health pressuring doctors or in any way manipulating the information to downgrade those lists? Patients have been downgraded not because of clinical reasons, not because their condition is improving, but simply to make the list look better.

Patients are not getting their surgery within 30 days when they are category 1, and they get downgraded to category 2 not because of clinical reasons, but because of other reasons—administrative reasons. The question is: is that occurring? That has been alleged. It has been alleged by a patient that it happened to him. It has been alleged by a doctor that it is occurring. The minister needs to explain very clearly in this chamber what is occurring and why it is occurring.

The minister boasts that 95 per cent of category 1 patients are seen on time. They are the figures that are reported nationally. She is out there boasting that that is the case. But is that actually true or is that a lie? Is the manipulation of the data such that if patients that are listed as category 1 remained category 1 rather than having a downgrade to category 2, that 95 per cent success rate would look significantly worse?

So the question is: what is going on? The minister, I hope, when she addresses this motion will give us a very clear and articulate answer about what is going on in this department and what she knows. She has provided us with some answers in the Assembly to date, and we can look at those. But I must say that there is a complete contradiction between the assertions that she is making—she is saying that there is nothing going on—and those of the doctors. She is saying there is absolutely no evidence of downgrading of elective surgery patients in line with the allegations made by Dr Hughes. She says in an answer to another question:

> So it is based on their clinical assessment, and at times if their clinical assessment is that that patient is no longer a category 1 and is a category 2a that is the process that is followed …

She said in this place that this is only ever done, essentially, if there is a change in the clinical assessment by the doctor; so obviously the patient is getting better. That is not what is being alleged by the doctor and that is not what is being alleged by the patient. Quite clearly, the community has lost faith in this minister's ability to manage the list.

Mr Speaker, I refer you to two polls that have been conducted in the *Canberra Times* in this last month. They polled a significant number of people—706 in one poll and 603 in the other. The questions include: "Do you think the ACT government is doing enough to reduce waiting times for elective surgery?" and 86 per cent say no. In the other poll, that figure is 86.4 per cent saying no.

So the community has quite clearly lost confidence in Katy Gallagher's ability to manage these lists. Not only are they concerned now that they are going to wait an inordinate amount of time, but there is real concern by the patients and by medical practitioners that those lists are being somehow manipulated or that the data is being made to look better than is the reality.

I call on the minister to provide to the Assembly by the close of business on 24 June the number of elective surgery patients in the ACT in the last 24 months that have been downgraded from urgent category 1 to a lower category. She said that this has only happened for clinical reasons, that she is not aware of any cases. So I am sure she will provide that data very easily. We do not need names; we just need to know how many.

For those people for whom she provides names, I want to know how long they have been on that category 1 list when they were downgraded. I also call on the minister to provide for each case where a patient was downgraded an explanation of why they were downgraded. Why is it that those patients were downgraded? Was it because their condition improved or was there another reason? Was the reason, I would ask, they could not be operated on within 30 days? If that is the only reason that is given by the minister—it is simply because they have not been operated on within 30 days—I would contend that there is a real case that she has misled the Assembly and she has without question misled and lied to the community. That is absolutely irrefutable.

We only need one case. If we have one case where someone has been downgraded because their time frame was going to exceed the 30 days, and that is why they are downgraded—not because their condition improved—then you have a clear case of this minister and her department seeking to change the numbers and the statistics to make it look better.

Did David's condition suddenly improve? I very much doubt it. I have also called on the minister to provide for each case where a patient was downgraded an explanation of who initiated the decision or the request to downgrade the patient, that being either the patient's doctor or an ACT Health official.

If the doctor went to ACT Health and said, "Okay, this patient is getting better; I am going to downgrade him from category 1 to category 2," that is a very different

circumstance from ACT Health ringing up the doctor and saying, "Doctor, we need you to downgrade this patient because we cannot operate on him in time."

One is essentially the department putting pressure on doctors. The other would be a doctor making a clinical assessment. We need an answer to that because I am not going to accept Katy Gallagher getting up in this place and fudging the figures, telling us everything is okay when quite potentially that is not the case. It is serious misleading of the community and potentially serious misleading of this Assembly has occurred.

Mr Speaker, the facts speak for themselves from the AIHW report. We know that we have the worst elective surgery waiting times in the nation, but we have some facts to uncover on whether those lists have been manipulated. I will not rest until we have that information uncovered.

MS GALLAGHER (Molonglo—Deputy Chief Minister, Treasurer, Minister for Health and Minister for Industrial Relations) (8.15): I welcome the opportunity to debate in the Assembly tonight the elective surgery motion being put forward by Mr Hanson.

Mr Hanson raises a number of allegations around the management of the elective surgery waiting lists and the waiting list policy in ACT Health—a number of quite serious allegations, supported but without any evidence by Dr Peter Hughes and some comments from a patient.

I think it is worth the time going through the policy that is in place, that I am sure Mr Hanson has read and that is available on the ACT Health website, called the waiting time and elective patient management policy, which actually goes through exactly how the elective surgery waiting lists are managed. It does provide for audits of the list. At the back there are a number of pro forma letters, which I am sure Mr Hanson has read, although maybe he has not—maybe he has not done his homework; otherwise I am sure he would have tabled them here this evening—which go through letters to doctors from the surgical booking areas and letters to patients from the surgical booking area, all updating the waiting list. This is done on a quarterly basis and has been done since this policy was put in place on 1 January 2008.

At the time, there was much discussion and, as I recall, there was discussion publicly around the letters that were being used, because I at that time did not want the letters that were being sent to patients, asking them if they still wanted to be on the list or whether their condition had improved, as a way of us trying to remove people from the list. But it is standard practice in terms of managing your waiting lists, making sure your waiting lists are up to date and that your doctors are informed.

It is true that our elective surgery waits are the longest in the country in particular areas of specialty. I have gone through a number of the reasons for that. We have had to build up our bed capacity. We have got to the point where our bed capacity is now able to sustain in excess of 10,000 procedures a year, which is about a 30 per cent increase on what we were doing back in 2002. So beds are part of the answer, staff are part of the answer, as are nurses and surgeons, more intensive care beds and more operating theatres, all of which we have put in place over the last few years.

We do have the highest utilisation rate of a public hospital anywhere in the country, second only to the Northern Territory. People come and use the public system for their elective work and that is partly because of the quality of the public system but also because of the restrictions or the lack of capacity in the private sector.

The median waiting time across the territory is currently 73 days; that is, 44 days at Canberra Hospital and 110 days at Calvary. Canberra Hospital's median waiting time has declined from 51 days at this time last year to 44 days, and Calvary hospital's has increased from 98 days to 110 days from this time last year. It is not surprising, considering that a lot of the urgent work is done at Canberra Hospital, that we would see those distortions, but certainly Calvary's median waiting time is going in the wrong direction and we are speaking with Calvary Public Hospital about our concerns about that.

In terms of the way forward, in terms of improvements and increasing access to elective surgery—I have spoken at estimates and again in this place a number of times—now that we have three extra theatres, we have all of our theatres at Canberra Hospital operating, we have extended the operating times, we have employed more surgeons, we have extra recovery beds, we are able to increase our throughput. We cannot, however, increase it much more than at the moment, so we are looking to our private sector partners for assistance with that.

I have written to the AMA. In the past, some of our private specialists have not been as welcoming of putting work out to the private sector as I hope they are going to be in the future; they have put restrictions on what work can be done in the private system. However, with the tender that has just been completed—we have had four responses to that tender, plus another approach from another organisation—I feel that we will be able to get a considerable amount of work, particularly for our ENT list, out into the private sector, and that will significantly reduce the wait lists in those specialty areas where there are long waits.

In relation to concerns that there has been doctoring of lists or manipulation of lists, can I stand here and say that that is simply untrue and there is no evidence to say that that is a practice that is employed by ACT Health. Yesterday, I was asked a number of questions around this and the *Hansard* shows them. I reflected yesterday on my answers that I had given, to make sure that what I had said was true. I was asked a number of times whether or not I think admin staff approach doctors and ask that their patients be downgraded, or that pressure was put on doctors, I think, to downgrade their clients; and I can absolutely say that that is not the case.

I can confirm, as I did yesterday, that conversations do occur between the surgical booking area and doctors around management of their lists and indeed letters are given. Letters are in this policy, which is on the website, which everybody can read—it has been on the website since 1 January 2008; there is no secret about what is in it—and which request that doctors regularly audit their lists.

This waiting time and elective patient management policy was put together by the Surgical Services Task Force, which is made up of senior surgeons from both

Canberra and Calvary hospitals, anaesthetists from both hospitals, senior executives at both hospitals and representatives of New South Wales Health. They form the Surgical Services Task Force. This was negotiated and put together by that group, with their endorsement that this is the best way to manage this. And you do have to manage this. You have to make sure that your throughput is going through in the most organised way, that the doctors are getting the sessions they want, that the times available for patients broken up into category 1, category 2 and category 3 are being done.

Now, for example, there is a letter which says—

Mr Hanson: Is that for clinical reasons?

MS GALLAGHER: There is a letter sent to doctors. Requests for admission forms come to the surgical booking area and, for example, a VMO may do a session of one morning every three weeks. If the VMO has requested admission for 10 patients for category 1, there is a very high chance that those cannot be fitted into their list, and if they cannot be done on the available time for that doctor they will fall outside the 30-day period, in which case those doctors are given alternatives, outlined in the letter: "Is your patient categorised in the right category? Is it clinically appropriate that they fall outside category 1? Should they see another surgeon? Do you want more session time in the operating theatres in which to perform this surgery so your patient gets it on time?" They are the options that are being put forward and then the surgeons fill out the form and fax it back to the surgical booking area.

Only a surgeon can make a change to a patient's clinical condition, the category they are put in on the elective surgery list. So, yes, there are letters that ask them to audit their patient load. Yes, there are letters that say: "You cannot physically operate on all these category 1s in the time allotted to you at the hospital. What are we going to do about that?"

Mr Hanson: Downgrade them.

MS GALLAGHER: No. "Will you refer to another surgeon?

Mr Hanson: What other surgeon? There is a staff shortage.

MS GALLAGHER: "Do you want more operating time? Is your patient in the correct category?" There are a number of questions asked—

Mr Smyth: So will you downgrade them?

Mr Hanson: Will you downgrade them?

MS GALLAGHER: and the doctor is the only one that—

Mr Smyth: So you misled?

MS GALLAGHER: No, I did not, Mr Smyth. I did not mislead—

Mr Hanson: There are no other surgeons.

MS GALLAGHER: the Assembly. Mr Speaker, I listened—

MR SPEAKER: Yes, thank you.

MS GALLAGHER: to Mr Hanson in complete silence. They are accusing me of misleading the Assembly on this point, and I have not misled the Assembly at any point on this. I am simply explaining the elective surgery waiting list policy—how it is managed and the process that the surgical bookings unit engages with doctors and with patients to make sure that the lists are in accordance.

Mr Seselja: But do patients get downgraded?

MR SPEAKER: Mr Seselja, come on!

MS GALLAGHER: We will not be supporting the motion by Mr Hanson. I have an amendment, which has been circulated, and I move:

> Omit all words after "That this Assembly", substitute:
>
> "(1) notes that:
>
> (a) the Australian Institute of Health and Welfare *Australian Hospital Statistics 2008-09* report released on 17 June 2010 shows that elective surgery waiting times in the ACT are the longest in Australia;
>
> (b) the report shows that since the previous report was released in 2009:
>
> (i) the median waiting time for elective surgery in the ACT (days waited at the 50th percentile) has worsened from 72 to 75 days, which is 31 days longer than the national average of 34 days;
>
> (ii) the length of time that the majority of people have been waiting for their elective surgery in the ACT (days waited at the 90th percentile) has worsened from 372 to 378 days, which is 158 days longer than the national average of 220 days; and
>
> (iii) the percentage of people who have waited more than a year for elective surgery in the ACT has worsened from 10.3% to 10.6% which is more than three times the national average of 2.9%;
>
> (c) patients waiting for surgery that should be completed within 60 days (Category 2A) are included in the numbers of people who have been waiting for over a year;
>
> (d) allegations have been made by a patient and by Dr Peter Hughes, President of the VMOA that waiting list data has been manipulated by downgrading the clinical categories of some patients; and
>
> (e) these allegations remain unsubstantiated; and

(2) calls on the Minister to provide to the Assembly by the final sitting day of this calendar year:

(a) an independent interim review of The Waiting Time and Elective Patient Management Policy that came into effect on 1 January 2008;

(b) a report from the Surgical Services Taskforce on the effectiveness of the current policy;

(c) as part of those reports examine any evidence of "downgrading" of patients not in line with the current policies in place; and

(d) that ACT Health works with the Health Services Commissioner in the development of these reports prior to their tabling in the Assembly.".

I have to say I am disappointed with the Greens' approach, but I am not at all concerned with an Auditor-General's review of this—at all. If there is genuine interest in this, I am offering the Assembly an independent interim review of this policy, done by an external waiting list expert—because it is actually quite a complex area of knowledge—and for the Surgical Services Task Force, which is made up of our most highly regarded surgeons from both hospitals, to provide a report to the Assembly about any concerns they have, any changes they want made or any evidence they have of inappropriate downgrading of patients.

I do not expect that I will get support for that amendment. The Greens have indicated they will not support it. But that would be, I can tell you now, the most useful information, if the Assembly was genuinely interested in the management of the list, rather than a political witch-hunt for my head, which is what this is actually about. If they actually want the information that I could provide for this Assembly, I am offering that in my amendment.

As I said, from the feeling I am getting, that amendment is not going to get up. But that would offer, I think, show clearly and provide some support to those in the surgical booking area and those surgeons who have been besmirched by the allegations by Dr Peter Hughes and by Mr Hanson's, I guess, rapid eagerness to just accept those allegations as true, because it is the surgical bookings area—

Mr Smyth: He asked you the question.

Mr Hanson: Answer the question.

MS GALLAGHER: I should take you down there, Mr Hanson, so you could face them after what you have said tonight. You have basically alleged that they have put pressure on doctors to change their patients' category, and in that way you have besmirched the reputation of doctors because you are saying the doctors are acquiescing.

Mr Hanson: Such a tired old tactic from you, isn't it, Katy: if I question you, I am actually besmirching everybody?

MS GALLAGHER: But that is the line that you are running: (1), that hospital executives, or surgical booking areas, are saying to doctors—

Mr Hanson: I asked you questions about what is going on. Answer them.

MS GALLAGHER: "You've got to downgrade your patients," and that these shy, wallflower doctors are going: "Oh, okay, no worries. No worries. I will downgrade them."

Mr Seselja: Is that the only way they can get a date?

Mr Hanson: Is that the only way they can get a date for surgery?

MR SPEAKER: Thank you!

MS GALLAGHER: That is absolutely unbelievable. It is absolutely unbelievable. It is not the way the hospital works. These are professionals. They are visiting medical officers, they are staff specialists and their patients are number one. There is absolutely no way any surgeon I have met would ever engage in behaviour that downgraded their patients for the hospital's convenience—absolutely not. I have never met a surgeon who would do it. I doubt whether you have met a surgeon who would do it. And for the staff in the surgical bookings area, you insult them—you insult them at Calvary and you insult them at Canberra Hospital—when so much effort has gone into making sure that there are rigorous processes about managing waiting lists and making sure that we improve access to elective surgery for those on the waiting lists.

So my suggestion to the Assembly is that we get a report from the Surgical Services Task Force, that they respond to the allegations that have been put, that we also have an independent review of the audit and that I provide that information to the Assembly. But I get the sense that the Assembly just simply is not interested.

MR HARGREAVES (Brindabella) (8.29): I wish to speak very briefly. I was listening to the debate upstairs, and I have to say that a couple of elements have crept in which give me some concern. The first one is the substantive content of the motion which is being debated. I do not mind if there is a bit of emotional high and all that sort of stuff, but there have been a couple of comments delivered across the chamber, Mr Speaker, and, had I been here, I would have risen to my feet and sought your intervention. One is that Mr Hanson in fact accused the minister of lying. He actually said the word "lying". Ms Hunter gave me a list of unparliamentary comments this evening, and it is sitting up there large as life. I would ask Mr Hanson to withdraw that comment, please, in the most positive of spirits.

Secondly, Mr Hanson also accused the minister of misleading the Assembly on more than one occasion and would know that the accusation of a minister, or a member, misleading the Assembly is probably the most serious accusation that a member can level, so that should be accompanied by a substantive motion on that issue, whether it be a motion of grave concern, a motion of censure, a motion of no confidence—call it what you will.

What concerns me is that those two terms can be used as liberally as they have—and I do not mean any pun there. I would ask Mr Hanson to withdraw both of those comments. The rest of what he has said is up to him and the minister to argue about. But I do think that it denigrates Mr Hanson's argument to use those particular terms. It does not do him or his party any good at all and I think it would be evidence of good grace to this parliament to withdraw those particular comments.

We need to understand that there are a number of issues at play in this motion. Some of them are the actual story behind all this, but the other one is the accusation that these records have been doctored in some way. If people are going to come into this chamber and suggest that, I think it is incumbent upon them to provide proof of that. If people do not have proof, do not bring it to this chamber—go and get it first. If proof does exist, Mr Speaker, then the leave of the chamber should be sought to table that proof, because this is a very serious allegation against public servants in the ACT—and I know, from nearly 30 years of service to the ACT, that that is probably the most hurtful accusation that can be levelled against the professionalism of the public servants.

I spent nearly 20 years in health, Mr Speaker, and I can tell you that in my experience I had cause to see a lot of maladministration—a lot of it—and I worked under the commonwealth regime, Liberals' regime and Labor's regime, and I saw a lot of incompetence and a lot of all sorts of stuff which you would not want to boast about. What I did not see was illegality. What I did not see was doctoring of information to suit a given purpose; I did not see any of that. I saw people going about their job, doing the best that they possibly could under rather dreadful circumstances. They used to say in 1985 in the Department of Health that the only thing consistent was the rate of change—and people were working in dreadful circumstances.

I will not—I cannot—sit here and listen to the reputation of those professional people that I worked alongside be besmirched in this way. If Mr Hanson has proof of this, let him produce it and let it be dealt with by a competent authority. And, believe me, Mr Speaker, competent authority to look at this stuff does exist. Independent, competent authority does exist. But let us not have a debate in this chamber over the gossamer of accusations. Let us have an argument over facts—hard facts.

I notice that Mr Hanson was very serious, very concerned and very angry, because he said so. "Do you think I am angry? I am," he said. And, if he feels as though that anger is justified, fine; I am not going to deny him that. But I would say: if you want to share it in this chamber, share the cause of it as well. Share the proof of it as well. Do not say of the ministry, "You can't do this," and then do it yourself. So I implore Mr Hanson to produce the evidence, and I for one will support an action to correct that if he can produce that information. I do not think he can—and I do not say that frivolously—because the people that I know, that I worked with for a very long time in ACT Health, are, quite frankly, just not capable of it. They are just not capable of it. They are concerned professionals. They are professional officers of the public service. In fact, most of the people that I worked with do not work at it because it is a job; they work at it because it is a vocation.

If Mr Hanson has half a case, it is a case for us all to make sure that it does not happen again, for the reputation of those who are in the system. But, if he does have it, and he does not share it, I think he is derelict in his duty as a member of this place.

I repeat my request and, if Mr Hanson will not have the good grace to withdraw those two phrases, I shall ask you, Mr Speaker, to examine the *Hansard* and seek him to withdraw them.

MR SPEAKER: Thank you, Mr Hargreaves. Mr Hanson.

MR HANSON (Molonglo) (8.36): Mr Speaker, to be honest, I cannot recall the exact form of words I used. My intent was to say, basically, as a question: has the minister misled or has she misled the Assembly? If that was the form I used, I am happy for it to remain. If, though, I did actually make the allegation—and it can be checked in the *Hansard* as to whether that was the case—then I am comfortable to withdraw. Just on the point of illegality, I have not made any mention—

MR SPEAKER: I am sorry, we cannot debate this.

MR HANSON: Okay, I will move on.

MR SPEAKER: I just want to clarify the—

MR HANSON: Does that satisfy Mr Hargreaves?

MR HARGREAVES (Brindabella) (8.36): On your request of Mr Hanson, Mr Speaker, I am afraid I do not accept a qualified withdrawal. An examination of the *Hansard* will reveal these words: "Did you mislead the Assembly?" and "Are you lying?" I am sorry, it is unequivocal.

MR SPEAKER: Thank you, Mr Hargreaves. I will undertake to examine the *Hansard*. It is the best we can do at this point. As it was said in the course of interjection, it is unclear whether or not the *Hansard* will have recorded it, but I will make that check.

Mr Hanson: I am happy to indicate that, should I have said that, I will be happy to withdraw.

Mr Hargreaves: Mr Speaker, I thank Mr Hanson for that undertaking. I would ask you to examine please not only the *Hansard* but also the tape.

MR SPEAKER: Thank you. We will undertake that checking of the tapes and *Hansard* as soon as practicable.

MS BRESNAN (Brindabella) (8.37): I acknowledge that the issue of elective surgery waiting lists is a matter that receives much community attention at times. When a person is unwell and must rely on the public health system to receive surgery it must be very difficult to endure the time it takes to reach one's place in the waiting list and

have medical surgery performed. I am sure a person could become incredibly anxious if they have been told by a doctor they need the surgery within a certain amount of days but that time period has passed.

The ACT elective surgery waiting list has some unique qualities, as evidenced in the Australian Institute of Health and Welfare's Australian hospital statistics. We have long waiting lists—our median waiting time is the longest in the country—but we also have the second highest rate of demand per 1,000 people and the smallest number of available hospitals. Later I will move an amendment to Mr Hanson's motion to reflect this, as the story is somewhat bigger than the figures presented.

It is worth acknowledging that, because of the size of our health system, it is difficult and often not possible to have particular specialists on staff, which quite obviously affects the ACT's elective surgery waiting lists. There are, however, concerns that have been raised and these need to be given due regard. It is worth noting at this point that the Auditor-General provided an audit report on elective surgery waiting lists in late 2004. The public accounts committee looked into the matter in 2005 and the government provided its response in 2008.

The Greens acknowledge that there have been allegations in recent weeks that the administration area of ACT Health has possibly downgraded patients from category 1 to category 2 if they had not had their surgery performed within 30 days. There have been discussions that some states in Australia have possibly used various tools or methods to impact on their waiting lists. I think it is important that the ACT is able to say it is not one of them. These allegations, it is true, have not been proven correct, but neither have they been proven false. It is important that we as an Assembly endorse a method of investigation that can clarify to the community what is occurring and hopefully reassure them that the waiting list has not been manipulated.

We could endorse a variety of investigations, several of which have been discussed with other parties today and are reflected in my amendment, the minister's amendment and Mr Hanson's motion. The first, obviously, was presented by Mr Hanson in the motion. However, I expect it would be quite difficult for ACT Health to provide such data in the time and manner required. It may depend on the manner in which reports can be extracted for the data. It was the Greens' original preference to see the Health Services Commissioner investigate the allegations of downgrading patients. Through our discussions with Ms Durkin she indicated she was willing to undertake this investigation but, given current resource levels, the commissioner would have needed additional resourcing to perform the duty.

The public accounts committee from the last Assembly recommended that the waiting time and elective patient management policy, which the minister has mentioned today, which commenced on 1 January 2008, should be publicly reviewed after three years. The government at the time said that it would review the policy internally on a regular basis. I appreciate that the Minister for Health has offered to have that review done, and by an independent reviewer. If you look at that policy document as it is currently available online it says that its review date is 31 December 2010. I expect the government is intending to keep to that written commitment. I do not think that by taking that on today we would have achieved much that was beyond what could already be expected.

The final option was to encourage or request the Auditor-General to consider the matter. My office has spoken with Ms Pham several times today and can confirm that the Auditor-General is keen to revisit those matters and concerns identified through the 2005 review. The matter of elective surgery was already on a list of topics the Auditor-General had identified as a possible investigation. However, there were other topics above it. The Auditor-General said she was willing to reconsider how she has prioritised the list and appreciates the growing attention that elective surgery is receiving.

Thus, after considering these options, I believe it is most appropriate that the method of investigation regarding the downgrading of categories be the Auditor-General's Office, if she wishes to do so, and that she incorporate that into a larger, systemic review, as she was keen to pursue. I should also mention that my office spoke with the Health Care Consumers Association of the ACT. They were keen to see any of the stronger methods of investigation pursued by those which were available today. For that reason, the Greens saw weight in pursuing independent methods of investigation by bodies well trusted by consumers and the public.

Question put:

That **Ms Gallagher's** amendment be agreed to.

The Assembly voted—

Ayes 6		Noes 9	
Mr Barr	Mr Stanhope	Ms Bresnan	Ms Le Couteur
Ms Burch		Mr Doszpot	Mr Rattenbury
Ms Gallagher		Mrs Dunne	Mr Seselja
Mr Hargreaves		Mr Hanson	Mr Smyth
Ms Porter		Ms Hunter	

Question so resolved in the negative.

MS BRESNAN (Brindabella) (8.47), by leave: I move the amendment circulated in my name:

Omit all words after "17 June 2010 shows that" in paragraph (1)(a), substitute:

"the ACT has the:

(i) longest median elective surgery waiting times in Australia; and

(ii) second highest level of admission per 1000 people in the population and the least number of reporting hospitals;

(b) the report shows that since the previous report was released in 2009:

(i) the median waiting time for elective surgery in the ACT (days waited at the 50th percentile) has worsened from 72 to 75 days, which is 31 days longer than the national average of 34 days;

(ii) the length of time that the majority of people have been waiting for their elective surgery in the ACT (days waited at the 90th percentile) has worsened from 372 to 378 days, which is 158 days longer than the national average of 220 days; and

(iii) the percentage of people who have waited more than a for elective surgery in the ACT has worsened from 10.3% to 10.6% which is more than three times the national average of 2.9%;

(c) patients waiting for surgery that should be completed within 60 days (Category 2A) are included in the numbers of people who have been waiting for over a year;

(d) allegations have been made about possible manipulation or mismanagement of the elective surgery waiting list and that some patients have been downgraded categories; and

(e) the Auditor-General conducted an audit of 'Waiting Lists for Elective Surgery and Medical Treatment' in 2004, and is interested in revisiting the subject; and

(2) requests the Auditor-General to conduct an audit of 'Waiting Lists for Elective Surgery and Medical Treatment' and consider as part of that audit concerns raised about the management of the elective surgery waiting list.".

I spoke earlier about the reasons behind the moving of this amendment. We thought the best course of action was to refer the matter to the Auditor-General, given that Ms Pham indicated that this was a topic she was interested in examining. In our conversations with her today she is still keen to pursue this issue and look at the management of the elective surgery waiting lists. That is why we have put forward this option and made the amendment to the Liberals' motion.

MR HANSON (Molonglo) (8.48): I thank Ms Bresnan for her amendment to my motion. The opposition will be supporting Ms Bresnan's amendment principally because I think it is quite clear that the minister is going to be unwilling to provide the information that I have sought in my motion. I have asked for some very specific information for her to bring back. It is quite clear from her amendment and from her speech that she is not prepared to do that. If we want to get an answer as to what has occurred it is quite clear that we need to go to a third party. I had some discussions with the Greens about this and the appropriate vehicle.

The Auditor-General certainly is an appropriate vehicle to get to the bottom of what has been going on and determine whether we are seeing the true face of elective surgery lists, particularly category 1s, in order to make sure that the lists are actually managed as effectively as they can be by the minister. Although there have been some

changes which I think are unnecessary, I can certainly live with them. The impact of getting the Auditor-General to look at this can only be a good thing for the patients on those waiting lists. The effects that I was trying to achieve will be achieved by sending it to the Auditor-General.

I will just turn to another point—and it is one raised by Mr Hargreaves—which is to do with the suggestion that there has been some illegality by ACT Health staff. I make it very clear for the *Hansard* that that is not what I believe and it is not what I am alleging. It is not about individual Health staff cheating the data. The question goes to why patients are being downgraded. Are they being downgraded for the purpose of clinical reassessment by a doctor who has decided that a patient's condition has improved and therefore they no longer require their surgery within 30 days, or is it because the surgery could not be completed within the 30 days and, therefore, ACT Health has said, "Well, we cannot do it within the 30 days. It's going to go beyond the 30 days. Therefore, let's re-categorise that patient"? That is a very different question.

Ms Gallagher in her speech talked about health policy, which I regularly review—I go on the website and look at it—and she talked about letters. She was waving a letter around, which I imagine is probably the same one that I had. I will grant leave to the minister to discuss this further if she would like to do so. She can confirm to me whether this is authentic. I have been provided with this letter. She may wish to confirm whether it is authentic. It is a letter to a doctor from surgical bookings at Canberra Hospital. It is from the manager of surgical bookings in the pre-admission clinic. I will read from the letter, and I am happy to table a copy:

> Following are the front sheets of RFA's for your Category 1—

an RFA is a request for admission—

> patients that are currently unable to be accommodated in your contracted operating time.

This is about patients that cannot be done within the prescribed time—

> According to the ACT Health Waiting Time and Elective Patient Management Policy, this category is for patients requiring an admission within 30 days '…for a condition that has the potential to deteriorate quickly to the point that it may become an emergency' and that 'Doctors who add a category 1 patient to the waiting list must ensure they are available to perform surgery within the 30 day period. Alternatively, the surgeon should make arrangements for another surgeon to perform the surgery within the appropriate time frame.

We know, quite clearly, Mr Speaker, that that is quite impossible in this scenario because in certain categories, in particular neurology, there simply are not the surgeons to conduct that surgery. It is like saying, "Category 1—you either do it or you give it to someone else," when you know that the surgeons are fully booked and there is nobody else. The letter continues:

> Please respond by informing us which of the following options you will be using to help us manage each of these patients:

> 1) We will indicate on the faxed RFA frontsheet the earliest possible date this patient can be accommodated on this list. We can make this a 'staged' procedure for this date. If you accept this date, please re-categorise this patient—

Let me say that again—

Ms Gallagher: Yes.

MR HANSON: "If you accept this date—

Ms Gallagher: If you accept this date.

MR HANSON: please re-categorise this patient as a '2a Staged Procedure'—

Ms Gallagher: If you, Doctor, accept this date—

MR HANSON: and return by fax". So let me be very clear, following Ms Gallagher's interjections, about what is occurring here, Mr Speaker. Doctors—

Ms Gallagher: And then you go down to the other options.

Mr Seselja interjecting—

MR SPEAKER: Let us hear Mr Hanson, please, Mr Seselja and Ms Gallagher.

MR HANSON: Doctors are being advised—

Mr Stanhope: What, you base this motion on that letter, because you do not understand?

MR HANSON: They are trying to interject because they do not want to hear what is coming out of here. They do not want to have this letter recorded, do they?

Mr Stanhope: You simply don't understand.

Ms Gallagher: The letters are on the website.

MR HANSON: Be quiet and listen and learn.

Mr Stanhope: You've based this whole motion on a flawed understanding of the procedure. What a joke!

MR SPEAKER: Order!

MR HANSON: What is occurring is that the doctors are being asked to downgrade—

Mr Stanhope: You don't understand. You goose!

MR SPEAKER: Mr Stanhope, you can speak in a moment.

MR HANSON: Doctors are being asked to downgrade their patients to a lower category because the surgery cannot be done within the time frame. They are given options, and the options are basically: do it yourself—we know they cannot, because the lists are too long and they have got too many urgent priority category 1s; give it to another surgeon—that surgeon either does not exist or they are all too busy; or we will give you a date but only if you recategorise that patient to category 2.

What they are saying in black and white in this letter is that, for those elective surgery patients in category 1 who will be operated on and given a date by ACT Health, if this doctor agrees, they will actually get a date but what will happen is that they will be downgraded to category 2. If this letter is correct—the minister may wish to confirm it—then it validates what we have been saying, what the patients have said, what David Wentworth has said and, to a large extent, what Peter Hughes has said. What it quite clearly shows is that the downgrading is not occurring because of a clinical reassessment. The downgrading to category 2 is not occurring because the patient got any better; the category is being downgraded simply because the patient cannot be operated on within the 30 days. That is what we have been alleging, and that is what is occurring in black and white.

When I asked the question of whether the minister would consider it appropriate or in accordance with policy that ACT Health would be contacting doctors to ask that they downgrade their patients, the minister responded—and it is on the *Hansard*— that it would not be in accordance with the policy. In black and white, the minister is saying that that would not be in accordance with the policy. But here we have another document from ACT Health, in black and white, where a doctor is being asked to do exactly that. He is being put in an impossible position—do the surgery yourself, knowing that you cannot; give it to another surgeon, and we know another surgeon cannot do it; or, "We'll give you a date for your surgery and we'll operate on this patient, but we're not going to keep them as a category 1." It is not, "We want to keep them as a category 1," but, "We'll give you a date if you downgrade it to category 2."

Why would they want to do that? Why would they not simply say, "Here's a date for your surgery. You've got a category 1 patient. We know that there's a priority. We're going to have to juggle it. We know that some patients in category 1 aren't going to be going within the 30 days, but we'll keep them as category 1, because we know that that's what they'd be clinically assessed by you as, but, this is the date for surgery." No, the only way they are going to get that date is through a downgrading to category 2. We made these allegations and Mr Hargreaves asked for proof and Ms Gallagher denied it in the Assembly. Well, there it is, in black and white.

Mr Stanhope: Read paragraph 2.

MR HANSON: Is it the policy or is it not the policy?

Ms Gallagher: No, he can't.

MR HANSON: I can read paragraph 2, but the point is that paragraph 2 goes to the point of whether the surgeon or another surgeon has the capacity and the ability to conduct that surgery. It is quite clear that that is not the case.

The key is in paragraph 1—that is, if a patient is not going to be operated on within a date given by ACT Health, surgeons are being asked to downgrade those patients to category 2 but not for a clinical reason. They are being asked to downgrade patients based solely on the reason that it is going beyond the 30 days. That is the point of that letter.

MS GALLAGHER (Molonglo—Deputy Chief Minister, Treasurer, Minister for Health and Minister for Industrial Relations) (8.58): It is obvious that Ms Bresnan's amendment will get up with the support of the Liberals. From our point of view, we have no problem with the Auditor-General coming in and having a look at this. Health performance reporting is perhaps the most heavily scrutinised area of all government reporting. ACT Health holds it in very high regard to have accurate data available at their fingertips to provide a whole range of reporting areas. They have never ever been found to be manipulating the data. I think it was Mr Smyth that alleged on one occasion that they were fudging the figures, and that ended up with lawyers being engaged and Mr Smyth not being able to follow through with his allegations. That is how strongly ACT Health will defend its record on health statistics.

Mr Hanson fails to understand the way the surgeons and the surgical booking areas work. Has Mr Hanson read the waiting time and elective patient management policy? Have you read that, Mr Hanson? Did you even know it existed before I showed it to you tonight? It is quite a lengthy document—30 pages, on the website, been there for nearly two years. It will talk you all through it. What it says is, "Dear Doctor, when we were auditing the lists we found that currently you are unable to perform operations on all your category 1 patients within the 30 days because you don't have that surgical time available to you." That may be because they only operate at the Canberra Hospital once a month, yet they may have two category 1 patients who take the whole day of their booking or they may have four category 1 patients. Therefore, alternatives have to be examined.

So a letter is sent, "Your current category 1 patients are unable to be accommodated in your current contracted operating time. Accordingly"—blah, blah, blah, Mr Hanson has read that out—"make sure they are category 1. Here are the following options that will be used to help you manage these patients":

> (1) We will indicate on the faxed … front sheet the earliest possible date the patient can be accommodated on this list.

This may very well be 32 days or it might be the next time the surgeon operates at that hospital and that might be the date, in which case they will fall outside of category 1 30-day period. "If you feel that waiting this long is not acceptable, ie, your clinical decision making is that you do not think"—

Mr Seselja: Sorry, you didn't read the second part of No 1. Why did you leave that out? The bit about reclassification?

MS GALLAGHER: Because if they fall outside the 30 days and it is acceptable to the doctor—that is, it is acceptable in their clinical opinion that that patient can wait—

Mr Smyth: You're picking and choosing.

Mr Seselja: It doesn't say that.

MS GALLAGHER: Well—

Mr Seselja: "If you want a date, we'll reclassify you. That's what it says."

MS GALLAGHER: "If you accept this date, that will mean that a doctor has to consider it—

Mr Seselja: Read between the lines.

MS GALLAGHER: Well, no—

Mr Stanhope: Reading between the lines now, are you?

Mr Seselja: No, no, she's asking us to read between the lines.

MR SPEAKER: Order, members!

MS GALLAGHER: "If you accept this date—ie, you've thought about it—and can this patient be seen on 30 July as opposed to 1 July then this procedure will go ahead. However, if you feel in your clinical opinion that this wait is unacceptable, then there are these other options available to you. For example, you can refer to another surgeon or you will be allocated additional theatre time in which to perform the operation within the time period. Please assist us in managing your list so that urgent patients in the first instance are categorised appropriately." Now I think it is about 50 per cent of all elective surgery—

Mr Smyth: Can you table all those? Can the minister table all those?

MS GALLAGHER: Well, you have got them all.

Mr Smyth: No, no. I would like you to table what you are reading from. I want to see what you are reading from—the policy, the whole lot.

Mr Hanson: That one you're reading from.

MS GALLAGHER: It is exactly the same document.

Mr Seselja: No, it isn't.

Mr Smyth: That's fine, that's fine, but—

MR SPEAKER: Order!

MS GALLAGHER: I am very happy to table it.

Mr Smyth: Thank you.

MS GALLAGHER: There is the letter—

MR SPEAKER: Order, Ms Gallagher, just one moment, please. Stop the clock, thank you, clerks.

Mrs Dunne: Mr Speaker, there are standing orders that allow members to ask the minister to table the one she is reading from.

MR SPEAKER: Are you asking? Mr Smyth has only called for it from his chair so far.

Mrs Dunne: Well, I am on my feet and, in accordance with the standing orders, I am asking the minister to table the document that she was reading from.

MS GALLAGHER: I am very happy to table the document—the document that the Liberals already have and have just handed to the Greens.

Mr Stanhope: In accordance with the same standing order, I ask both Mr Hanson and Ms Bresnan to table all documents they were referring to, too, during the day.

Mrs Dunne: They're not reading from anything at the moment.

Ms Bresnan: I wasn't reading from anything.

Mr Stanhope: No, I did not say they are at the moment, but I asked them to table all documents they were reading from or referred to during the debate.

Mr Hanson: Very happy to.

MR SPEAKER: On the point of order, Ms Gallagher, are you going to table your documents?

MS GALLAGHER: I table the document that the Liberals and the Greens have, and I will also table the waiting time and elective patient management policy which, if anyone had actually done their job, they would have found a couple of years ago on the internet:

> Elective surgery waiting times—
>
> > Copy of form letter from the Manager, Surgical Bookings/Pre-Admission Clinic.
> >
> > Copy of Waiting Time and Elective Patient Management Policy.

Mr Hanson: If it's the same document, I've got—

MR SPEAKER: Thank you, Ms Gallagher, we will come back to you in a moment. Mr Hanson, do you have any documents you wish to table?

Mr Hanson: I assume it is the same document, but because Ms Gallagher omitted the second part of paragraph 1, it is difficult to know. I table:

> Elective surgery waiting times—Copy of letter from the Manager, Surgical Bookings/Pre-Admission Clinic, dated 13 October 2009.

MS GALLAGHER: For God's sake. You did not even read paragraph 2, you joke. That is the one where the options are provided. It was not actually convenient.

Mr Hanson: No, but the points about downgrading the patients—

MR SPEAKER: Thank you! Mr Hanson has tabled his document. Ms Bresnan, do you have any documents you wish to table?

Ms Bresnan: I did not refer to any documents and I—

Mr Hanson: If it's the same one as mine—

MR SPEAKER: Order! I cannot hear Ms Bresnan.

Ms Bresnan: Thank you, Mr Speaker. I did not refer to any documents in my speech.

MR SPEAKER: Thank you, Ms Bresnan.

Mr Stanhope: I move that she table the documents that she referred to. She read from documents.

MR SPEAKER: I think that was her speech, Mr Stanhope.

Mr Stanhope: Well, I am asking her to table it, Mr Speaker.

Ms Bresnan: There you go:

> Elective surgery waiting times—Bresnan talking points, dated 23 June 2010.

MR SPEAKER: Ms Bresnan has tabled her speech.

Mr Hanson: Mr Speaker, I did not table my speech. Would you like me to table my speech as well—

MR SPEAKER: I think as it is on *Hansard* it will be fine thank you, Mr Hanson.

Mr Hargreaves: We don't want it!

MR SPEAKER: Order! Ms Gallagher has the floor to finish her current intervention.

MS GALLAGHER: Thank you, Mr Speaker. The conspiracy that the Liberals are trying to create does not exist. There is a process in place. There is an established process of audit for the waiting lists that is carried out quarterly by the surgical booking team. They work very closely with the surgeons. The surgical services task force works very closely with ACT Health to manage the list. Indeed, I have met with them recently to talk about better ways to manage the list, and there is a very high level of cooperation there. It is in their interests to manage their patients, just as it is for us to manage our theatre time, in the most effective and efficient way.

I would say that, whilst Mr Hanson will try and point the finger at me, I can honestly stand here and say that I have never asked for any patient to be downgraded or manipulated any list or done anything like that. The finger he is pointing is not at me; it is at the surgical booking team and it is at the surgeons themselves who you are implying are bullied into accepting, against their clinical judgment, different treatment pathways for their patients, and that is absolute rubbish. It just does not happen.

MR SESELJA (Molonglo—Leader of the Opposition) (9.07): The minister is now seeking to argue effectively that black is white. We have got a situation where we have had allegations raised in the community. No, this person is not in the community, apparently—Mr Wentworth. Let me quote:

> They said, "Oh you're being downgraded," Mr Wentworth told The Canberra Times.
>
> "I asked why I wasn't informed and the comment was that anyone who isn't operated on in the 30 days, the hospital downgrades.

So we have got Mr Wentworth saying that he was told that they all get downgraded. Then we have Peter Hughes from the ACT Visiting Medical Officers Association saying that he believes that administrative staff in ACT Health have been shifting elective surgery patients to lower priority categories than the ones nominated by their doctors. So we have got these allegations that are made in the community, and ACT Health says, "No; there is nothing to them."

Then we have the minister. She says, "Absolutely no evidence of downgrading elective surgery patients in line with the allegations by Dr Peter Hughes." Then she is asked a question by Mr Doszpot. Let me quote:

> **MR DOSZPOT**: Minister, have you been informed or have you investigated at any stage in the past whether this practice of downgrading patients has been occurring …
>
> **MS GALLAGHER**: It has never, ever, as I can recall, been raised with me as a problem. I have certainly had a number of briefings with the department around the decisions …

And she goes on. Then Mr Hanson asks a question. Let me quote again:

> **MR HANSON**: Minister, would you consider it appropriate or in accordance with policy that ACT Health would be contacting doctors to ask that they downgrade their patients?

> **MS GALLAGHER**: It would not be in accordance with the policy …

We have a situation where allegations are raised in the community and they are raised by senior doctors. The minister is asked questions in here. And now we have a letter which says, "If you want to be seen on this date, we will make you 2a." That is what this letter says. That was the bit that Ms Gallagher did not want to read from. That was the bit of the letter that she omitted to read from. It says:

> … we will indicate on the faxed RFA frontsheet the earliest possible date this patient can be accommodated on this list. We can make this a 'staged' procedure for this date. If you accept this date, please re-categorise this patient as a '2a Staged Procedure' …

Why do they need to be recategorised? Because they want a date. They are waiting. We have heard the stories of people waiting—for more than a year in some cases, for many months in any other cases—when they are urgent. We see doctors and we see patients who simply want to be operated on. They are desperately waiting for a date. ACT Health says to them, "Well, you can have a date, but you are no longer a category 1." What does that do? It improves the category 1 figures. The category 1 figures do not show someone being treated outside the 30 days. The 95 per cent is safe. That is what we are asking about.

The minister did not give us accurate information in the Assembly. It is not accurate to say that there is no evidence of downgrading of elective surgery patients. Let me quote again:

> **MR HANSON**: Minister, would you consider it appropriate or in accordance with policy that ACT Health would be contacting doctors to ask that they downgrade their patients?
>
> **MS GALLAGHER**: It would not be in accordance with the policy …

Now she says that it is, that it is policy. She says, "No; you are reading the letter wrong." Why do they need to be downgraded if not to change the make-up of the figures? It is no wonder that she did not want to read from that part of the letter, because that is the critical part. That is the bit that says that what Mr Wentworth and Dr Hughes were saying is actually backed up by documents.

Mr Stanhope: That is garbage.

MR SESELJA: It is actually backed up by documents.

Mr Stanhope: They are asking a question; they are not making a decision.

MR SESELJA: It is actually backed up by documents.

Mr Stanhope: Garbage.

MR SESELJA: Ms Gallagher claims that it would not be within policy. This is what she said. Mr Hanson said:

> … would you consider it appropriate or in accordance with policy that ACT Health would be contacting doctors to ask that they downgrade their patients?

Ask them. It says, "If you want this date, you will be recategorised." That is the way to get the date. That is the way to get the surgery. That is the way—by downgrading the patient, by moving to category 2a, where there is a different time frame. There is a different time frame for them. What we have here is a situation where Ms Gallagher says, "No; don't believe anything in that letter. Certainly don't believe the bits that I omitted to read from." They actually back up what is being said.

This is the fundamental problem. We have all sorts of problems with our elective surgery waiting times. We know that there is a lot of sensitivity from this government about the fact that we have the longest elective surgery waiting times in the country. From time to time, we hear Ms Gallagher trumpeting the fact that category 1 is not as bad as the other categories. We know that that is being manipulated. This is not a genuine process. What we have is a situation where we have the minister on the record. We have got officials on the record, responding to these allegations and saying, "There is nothing in them."

We would be interested to know what was in the briefing for Ms Gallagher when she came back. Before question time yesterday, she sought a briefing. She would have received a briefing about these allegations. We would like to see those documents. We would like the Minister for Health to table those documents so that we can see what information was given to the minister before question time.

I want to move an amendment to Ms Bresnan's amendment to Mr Hanson's motion, and I circulate that now. Before I hand it over, let me say that it calls for the minister to table any and all documents relating to the brief the Minister for Health referred to in question time on 22 June in response to Mr Hanson's question relating to hospital waiting times, by the close of business on the last sitting day of this sitting fortnight, including, but not being limited to, briefing papers, meeting notes, emails and correspondence from your department. I should amend it, because it should be by Tuesday. It is just a brief. I am happy to assist the Clerk with the wording. I move:

> Add:
>
> "(3) calls on the Minister for Health to table any and all documents relating to the brief to the Minister for Health referred to by the Minister for Health in question time on 22 June 2010 in response to Mr Hanson's question relating to hospital waiting times by the close of business of Tuesday, 29 June 2010, including, but not limited to, briefing papers, meeting notes, emails, correspondence from your Department.".

It is important that the minister table this. What we have here is a situation where we have letters going to doctors saying that, in order to get a date for surgery for their patients, they have to be recategorised. The only impact of them being recategorised is that category 1 suddenly looks better. Suddenly there are fewer people who fall outside 30 days for category 1. These are serious matters, and Ms Gallagher, in omitting to read from the critical—

Mr Stanhope: She tabled the letter, for God's sake.

MR SESELJA: She tabled it when she was asked to. When she was reading from it, she omitted to read from the most important part. She omitted to read the most important part:

> If you accept this date, please re-categorise this patient as a '2a Staged Procedure' …

That goes to the heart of the claims that have been made by patients and by doctors. They have been dismissed as absolutely baseless. Apparently they have all gotten it wrong. Ms Gallagher says that Mr Hanson does not understand, that it is because Mr Hanson does not understand. Apparently Dr Hughes does not understand either. And many other people do not—just simply do not understand, the way that this minister does, why these patients are being recategorised.

It does beg the question of why Dr Hughes would make this up. Why would Dr Hughes make this up? Why would Mr Wentworth make this up? They are effectively being called liars by members of this government, yet we have documentation there that says that they are being recategorised. It suggests that what Ms Gallagher said yesterday in the Assembly is not correct. "Is it in accordance with policy?" "It would not be in accordance with the policy." But now she says it is.

You cannot have it both ways. They are being asked. They have been contacting doctors to ask that they downgrade their patients: "If you want the date, you will downgrade." Ms Gallagher has a lot of questions to answer—a lot of further questions to answer. I commend my amendment to the Assembly.

MR HARGREAVES (Brindabella) (9.17): W need to understand a couple of things in the search for the conspiracy theory that seems to be abroad at the moment. One of them is something that Mr Seselja said which I thought was absolutely on the money. He said, "You have got to read between the lines." Well, I do not. I generally read the first line and the next one. I do not try to read in between; I do not try to interpret it. He has got a missive from the hospital to a doctor, and he says, as he said here in this chamber not too long ago, "Yeah, but you've got to read between the lines." If anybody says that you have to read between the lines, that shows me only that they are looking for something and are having a little bit of trouble finding it. But they will continue to pursue it.

What we are seeing here is the holding up of a letter to the doctors from the hospital as if it is something new. The minister has tabled essentially the processes which have been available for people to look at for a couple of years, but those opposite have not seen them. What we are seeing, and these people across here either have not twigged to it or do not understand it, is that this same letter, this same approach—seeking for doctors to review the clinical decision, the clinical responsibility that they have for their patients, seeking for them to look at it again—happens quite regularly. The worst-case scenario is that they get a letter every quarter saying, "Would you like to have another look at it, please?"

I ask those opposite this question: why wasn't this same issue brought to our attention two years ago if it was so much of a problem? It is because they had not read it. They had not worked it out. Because they have got some disgruntled person come and give them an episodic problem, they have turned it into a systemic issue yet again.

With these category 1 patients, we ask the surgeons to look at their clinical decision making every 30 days or so. You are going to get this same communication between a hospital and a doctor every month or so. Where is the conspiracy? The hospital is saying that they want the best thing for the patients, but it is the doctors' decision. They are saying to the doctors, "Here are a number of ways in which you can fix the problem for your patient." There is nothing in any of the correspondence which says, "You must do this, that or the other." The doctor is the supreme authority over the welfare of that patient, full stop. This happens quite frequently. As I have indicated already, for category 1 it is every month or so—and for other categories.

The other thing that these guys opposite have not said is this. They are saying, "There are obviously problems for category 1 patients," as though every single category 1 patient has got a problem. We have not heard from them how other categories can have their surgery brought forward if there is a hole in the list, if there is a cancellation. If there is a hole in the list because somebody has cancelled, wouldn't you expect the surgeon to ring up the next category 1 patient and say, "Can you come in, please?" Of course, they are not interested in any of this, but this is the fact.

Mr Speaker, I can tell you from personal experience—very recently; in fact as recently as three weeks ago—that a patient who had nasal surgery to correct a chronic airways blockage, not a category 1 patient, was told that they would have to wait until March of next year but then was rung up and asked, "Can you come in next week? We have had a cancellation." So let us not believe that this is a systemic issue.

These people have got one or two issues that they feel are of concern. They should raise those single issues with the minister, certainly. But we are not seeing a systemic issue. The minister has quite appropriately put the policy and the processes on the table. If you have a good look at that letter, that letter is saying to the surgeons, "We want to help you look after your patients. What is your clinical decision with respect to those patients?"

Every surgeon in this town, including Dr Peter Hughes, who has been in this town for a very long time—in fact, he was a urologist when I first joined Health in 1978, when he was a Liberal member of the then Advisory Council, and I think he was president of the ACT Liberal Party and at one point a candidate in the federal election and missed out there too—knows that they are going to receive this kind of correspondence from the hospital from time to time. Every one of them knows that.

Those opposite are trying to make a straw man out of all of this. If they had any substance to their argument, we would have heard it two years ago. Well, we would not have, because Mr Hanson has not been here that long. But it is true to say that this is nothing unusual in this place. The hospital, in fact, would be derelict in its duty if it did not ask the surgeons to review.

Some patients do have their clinical position go from category 1 to category 2. More often than not, it would go from category 2 to category 1, but it does not. The only person who can determine that category is the doctor. Instead of going on a witch-hunt and trying to say, "Let's read between the lines about what the hospital said or did not say to the doctors," we should be applauding the hospital for being in such contact with the surgeon in the first place.

We need to be particularly careful about going on witch-hunts around this. If members are at all concerned about this, briefings can usually be arranged. If you have a good look at those processes that the minister has now tabled, you will see for yourselves that this is standard operating procedure in all hospitals. These characters across the road here have just made a massive mountain out of absolutely nothing. We in this chamber must be careful not to fall for this three-card trick.

MR STANHOPE (Ginninderra—Chief Minister, Minister for Transport, Minister for Territory and Municipal Services, Minister for Business and Economic Development, Minister for Land and Property Services, Minister for Aboriginal and Torres Strait Islander Affairs and Minister for the Arts and Heritage) (9.24): I will be brief. I think the point has been laboured well and truly. The Minister for Health has made it quite clear that, whilst, of course, we believe the motion to be entirely confected, we have no concern and nothing to fear from an inquiry by the Auditor-General into this issue, because we know what will be revealed, and we look forward to your apologies when the report is tabled.

I do want to go to Mr Seselja's motion. I will not dwell on or actually repeat what has been said in relation to the motion at large and the amendments, except to repeat that the Liberal Party and, by association, the Greens, in supporting the Liberal Party in relation to this witch-hunt, completely misunderstand the process in relation to allocation of patients and the clear meaning and intent of the letter that has caused such furious, confected and contrived concern tonight. It is a simple and clear expression of consequence for doctors or clinicians of decisions that they may take. If they take this decision, then this is the consequence; if they take that decision, this is the consequence. But at every point in that letter it is made abundantly clear that the decision maker is the clinician and all the letter does is point out the consequences of the various decisions which the clinician may take. That is all it does. It is as clear as the nose on your face.

In relation to Mr Seselja's amendment, it is simply unacceptable for this place to be moving motions of this sort in relation to briefs or papers that are not in the chamber today, that were referred to in passing by a minister in acknowledging that yes, she had been briefed. It is simply unacceptable by any standard in any parliament in Australia for a parliament to demand that of a minister, without the brief in front of him or her, without the capacity to inform members, who are contemplating supporting an amendment or a motion such as this, of the content of the brief. Does it contain private issues? Does it refer to patients? What is the Assembly asking in relation to a document that might be highly private or personal in relation to a patient within a medical system?

Do members of this place honestly believe it is appropriate to demand of a minister that she table a document she does not have with her, which she cannot refer to, which may refer to a patient and that patient's clinical position or standing, and expect the minister or the government of the day to accede? No reasonable member of any parliament of Australia would either move or support a motion such as this, demanding that a minister, a member of the executive, table a document when that minister has absolutely no way of being able to recall automatically or instantly the content or the appropriateness of it or, indeed, whether she would be legally able to do so, having regard to other legal impediments such as privacy or other restraints.

Mr Seselja: She can come back to us tomorrow.

MR STANHOPE: Then you should not pass the motion. You should not. We are talking here about brief to a minister for health and it is simply unreasonable and exceptional to expect a minister with responsibility for health most particularly—but it is a principle that would apply to other ministers—to be asked to table a document such as this. It would be more appropriate, if you believe that the record should be made available, she be asked through the Freedom of Information Act or some other appropriate mechanism, rather than this blunt-axe approach which is entirely inappropriate. Then due consideration could be given by the minister or by the government or by the relevant departmental decision maker as to whether or not the document can be appropriately revealed.

But to be moving motions in this place for many of the documents to be tabled in this way is simply inappropriate. If you believe that there should be access to this document, use the appropriate mechanisms and use the Freedom of Information Act, use those mechanisms that allow due consideration to be given to whether or not it is appropriate for this document to be released and the conditions or circumstances under which it should be released.

MS BRESNAN (Brindabella) (9.29): The Greens will not be supporting this amendment to my amendment. I think it is important to remember that we do need to consider that it is important for public servants to be able to provide frank and fearless advice to ministers and I think this impacts on that. And this is the very reason why, with what we have been discussing today, I have moved my amendment. I think the most appropriate body to conduct this is someone like an auditor-general who will access the information and use it in a sensible, proper and impartial way.

Question put:

> That **Mr Seselja's** amendment to **Ms Bresnan's** proposed amendment be agreed to.

The Assembly voted—

Ayes 5		Noes 10	
Mr Doszpot	Mr Seselja	Mr Barr	Ms Hunter
Mrs Dunne	Mr Smyth	Ms Bresnan	Ms Le Couteur
Mr Hanson		Ms Burch	Ms Porter
		Ms Gallagher	Mr Rattenbury
		Mr Hargreaves	Mr Stanhope

Question so resolved in the negative.

MR HANSON (Molonglo) (9.33): In closing—

MR SPEAKER: Beautiful.

MR HANSON: I thought you would be happy. In view of the hour, I will be brief. I would like to thank members for their contributions. I would like to thank Mr Seselja, my colleague, for his contributions and his amendment. Although it has not been supported, I do believe that it is important that we get to the bottom of what actually was the intent behind the minister's statement in this Assembly. We do need to go through the *Hansard*. We need to go through the facts to see whether there have been any misleads. I think the important part of that is understanding what information the minister had at the time that she made her statements in the Assembly yesterday.

As to the full, substantive elements of the motion, I thank the Greens for their contribution to the debate and their support of this motion today. Given that the minister was clearly going to refuse to provide the information that this Assembly needed with regard to the management of waiting lists, requesting that the Auditor-General provide us with a report, a review, an audit of the waiting list is the most satisfactory way to go forward. I would ask that the Auditor General, when she receives that request, address it in the most timely fashion.

There is no question that our lists are the worst in the country. There is no question that they are getting worse and there is no question that this minister has abjectly failed both for the longer wait patients—the majority of wait patients—and for the median-wait patients to actually rectify what is an appalling situation.

The other issue that is being discussed at length tonight is that of the management of elective surgery waiting lists and why it is that category 1 patients are being downgraded from category 1 to category 2. The question needs to be resolved, because it is quite clear that it is to the minister's advantage to boast that 95 per cent of her category 1 patients are seen on time. I am sure if I review the *Hansard* I will be able to find examples of that.

But when we actually examine what is occurring, based on the evidence that we have received, it is quite clear that doctors are put in an impossible position because they simply do not have the capacity to do more surgery, in particular in areas of ACT Health where there are staff shortages. By the minister's own admission, there are certainly areas like that. Neurology is the case that has been mentioned, but I am sure there are others.

They are being asked essentially to get the surgery done when they cannot, give it to another doctor—and that cannot work—or downgrade the surgery. Why is it that, in order for the surgery to be done outside the 30-day period and for a date to be given, that surgery would need to be downgraded? And what should be occurring rather is that, if surgery cannot be conducted within the 30 days because there are shortages of

staff, doctors should be indeed prioritising their surgery. They should be given a date and the surgery should be conducted. But it should still remain a category 1 patient. That would then give us a true indication of the statistics and what number of category 1 patients are being operated on within the 30-day prescribed period, rather than adjusting it so that they actually meet the criteria within the books for category 2.

It might sound rather technical—

Mr Stanhope: It sounds dishonest, to me.

MR HANSON: This is an important matter. ACT Health is—

Mr Seselja: On a point of order, Mr Speaker, the Chief Minister cannot call Mr Hanson dishonest. I would ask you to ask him to withdraw.

Mr Stanhope: Actually he is repeating and actually illustrating his lack of knowledge and understanding and his ignorance of a letter.

Mr Seselja: Sorry, he can withdraw. It is not up to him to debate it, Mr Speaker.

Mr Stanhope: It is simply dishonest to make the claims he is making in relation to that letter, simply dishonest.

MR SPEAKER: There is no point of order. I do not believe he called Mr Hanson personally dishonest.

Mr Stanhope: Dishonest interpretation.

MR SPEAKER: Mr Hanson, you have the floor. Continue.

MR HANSON: Thanks, Mr Speaker. The question is: has the minister misled the community? The question is: has she misled the Assembly? And I think that based on the evidence—

Mr Stanhope: The question is: have you misled the Assembly? Are you misleading the Assembly now?

MR SPEAKER: Thank you, Mr Stanhope, that is quite enough.

MR HANSON: I think that, based on the evidence that we see here tonight, these are serious questions that must be answered.

Mr Stanhope: You are misleading the Assembly now.

Mr Smyth: On a point of order, he has got to withdraw that, Mr Speaker.

MR SPEAKER: Yes, Mr Stanhope.

Mr Stanhope: It sounded like a mislead to me.

MR SPEAKER: Mr Stanhope!

Mr Stanhope: I withdraw the word "mislead", but he is definitely misinterpreting the letter and doing it quite deliberately.

MR SPEAKER: Mr Stanhope, thank you. Resume your seat.

Mrs Dunne: No, he has to withdraw, and he cannot substitute other words.

MR SPEAKER: He did withdraw.

MR HANSON: Mr Speaker, can I make the point that both Mr Smyth and I were warned today during question time for fewer interjections and, I would say, less controversial interjections. If the Chief Minister does continue, I would ask that he be warned in accordance with the way that Mr Smyth and I were.

Mr Stanhope: Little petal. Time to go home.

MR SPEAKER: Thank you, members, that is enough. Let us hear Mr Hanson.

MR HANSON: The minister said in this place yesterday, with regard to why patients were being downgraded, that it was based on their clinical assessment. What we are seeing is doctors being put in a position where they are downgrading patients to category 2 simply as a result of the fact that the date that they are going to be operated on exceeds the 30-day limit.

What we have seen tonight, I think, is a real problem of competence of this government and a consequence of that is that patients are waiting exceptionally long times for elective surgery in the ACT—twice the national average.

Mr Stanhope: Rubbish.

MR HANSON: The Chief Minister is interjecting. He invites me to look at the statistics. I was going to conclude. If he wants me to read them out, I will. But he says that they are rubbish. I will tell you that you are—

Mr Stanhope: No, I wasn't referring to statistics as rubbish. I was referring to you as rubbish.

MR SPEAKER: Order, Mr Stanhope! Mr Stanhope, let him finish.

MR HANSON: The median wait for elective surgery is more than twice as long, 31 days longer, as the national average, which is 34 days. If you are at the 90th percentile, which is the majority of patients, you wait 378 days, which is 158 days longer than the national average. And 10.6 per cent of patients have been waiting over a year. That is, in fact, three times more than the national average. All of those three statistics have deteriorated since the same report was released last year. If Mr Stanhope says that it is rubbish—

Mr Stanhope: I said you were rubbish.

MR SPEAKER: Mr Stanhope, thank you!

Mr Stanhope: I was not referring to the statistics.

MR SPEAKER: Mr Stanhope, you are now warned for interjecting persistently.

MR HANSON: In conclusion, I thank members for their contribution. This is an important motion. The government is trying to deflect from the gravity of what has occurred here tonight but I am sure that more will be played out in the days to come.

I have every respect for the doctors and the surgical staff and the staff who are working hard in very difficult circumstances. And I commend them for what they are trying to do in managing what is a very difficult circumstance. My criticism is the way that the government has chosen to put the lists in a certain light, where they are presenting category 1 more favourably than is the reality and, as a consequence, have put those doctors and those staff in a very difficult position.

I would also like to spare a thought for the many hundreds of elective surgery patients who are waiting on lists, who are often not communicated with satisfactorily and who are often in pain and worried about when they are going to get their surgery and if, as a consequence of tonight's motion and the action that will be taken by this Assembly and the audit that will be conducted by the Auditor-General that improves those lists and provides better communication with patients, then I feel that we will have done our job tonight in this Assembly.

Amendment agreed to.

Motion, as amended, agreed to.

Adjournment

Motion by **Mr Stanhope** agreed to:

> That the Assembly do now adjourn.

The Assembly adjourned at 9.43 pm.

Schedules of amendments

Schedule 1

Education Amendment Bill 2008

Amendments moved by Ms Hunter

1
Clause 4
Page 2, line 9—

omit clause 4, substitute

4 Establishing government schools etc
Section 20 (5) and (6)

substitute

(5) Before making a decision to close or amalgamate a government school, the Minister must take the following steps:

(a) tell the school community that the Minister is considering closing or amalgamating the school and the reasons why;

(b) obtain a report from the committee established under section 20A to use in consultation with the school community under paragraph (c) that—

(i) comprehensively assesses the impacts of closing or amalgamating the school on the school community; and

Note For what impacts must be assessed, see s 20B.

(ii) identifies alternatives to closing or amalgamating the school;

(c) consult with the school community for at least 6 months on the educational, economic, environmental and social impacts of, and identifying alternatives to, closing or amalgamating the school;

Note For how the Minister must undertake consultation, see s 20A.

(d) publish in a daily newspaper—

(i) notice of a proposal to close or amalgamate the school; and

(ii) details of where a copy of the report mentioned in paragraph (b) can be obtained;

Example

a website operated by the administrative unit responsible for this Act

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

(e) give written notice of the matters mentioned in paragraph (d) to—

(i) the parents and citizens association; and

(ii) the chairperson of the school board; and

(iii) the principal of the school.

(6) Not less than 12 months after telling the school community that the Minister is considering closing or amalgamating the school, the Minister must—

(a) publish notice of the final decision in a daily newspaper; and

(b) give written notice of the decision to—

(i) a parent of each student at the school; and

(ii) each member of the school's parents and citizens association; and

(iii) each member of the school board; and

(iv) the principal and each teacher at the school; and

(c) explain to the school community the reasons for the final decision and how the following have been taken into account in making the final decision:

(i) the school community's views;

(ii) the relevant general principles of this Act under section 7;

(iii) the principles on which chapter 3 is based under section 18.

2
Clause 7
Proposed new section 20 (9)
Page 3, line 20—

omit proposed new section 20 (9), substitute

(9) In this section:

school community, in relation to a school that is proposed to be closed or amalgamated, means the members of the community affected by closing or amalgamating the school, including students at the school, students' families, the school board, the principal and teachers at the school and the local community.

Examples—local community

residents, local businesses

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see Legislation Act, s 126 and s 132).

3
Proposed new clause 8
Page 3, line 25—

insert

8 New sections 20A and 20B

insert

20A Independent committee

(1) The Minister must establish an independent committee.

(2) The functions of the committee are to—

(a) prepare the report mentioned in section 20 (5) (b); and

(b) undertake the consultation on behalf of the Minister under section 20 (5) (c).

(3) The committee must consist of 3 people selected after consultation with the appropriate standing committee.

(4) In this section:

appropriate standing committee means—

(a) the standing committee of the Legislative Assembly nominated by the Speaker for this section; or

(b) if no nomination under paragraph (a) is in effect—the standing committee of the Legislative Assembly responsible for the consideration of educational issues.

20B Impacts of closing or amalgamating schools

(1) An assessment under section 20 (5) (b) must include information about the following educational, economic, environmental and social impacts in relation to closing or amalgamating a school:

(a) the following educational impacts:

(i) the range, quality and depth of education programs;

(ii) the age and condition of school infrastructure, facilities and resources;

(iii) teaching resources and workloads;

(iv) social and learning environment for children;

(v) extracurricular activities;

(vi) parent participation in school;

(vii) out-of-hours school programs;

(viii) findings of research studies on school size;

(ix) student outcomes, especially those of parents who have a low income, are Indigenous or from a non English speaking background or with disabilities;

(x) access to public education;

(xi) school enrolments;

(b) the following economic impacts:

(i) recurrent and capital savings and costs, including one-off savings and costs, of closing or amalgamating the school for the Territory, including—

(A) staffing and resources; and

(B) school bus transport; and

(C) traffic and safety arrangements; and

(D) building maintenance and security;

(ii) financial impact on parents, including transport and travel time;

(iii) financial impact on local business including ongoing viability;

(iv) a comparison of the cost, per student, to operate the school with the cost, per student, to operate other ACT government schools and average cost across all ACT government schools;

(c) the following environmental impacts:

(i) traffic congestion;

(ii) air pollution;

(iii) greenhouse gas emissions;

(iv) noise levels;

(v) open green space adjacent to the school site;

(d) the following social impacts:

(i) demographic projections of parents with school-age children, including taking into account expected land releases;

(ii) implications for parents who have a low income, are Indigenous or from a non-English speaking background or of students with disabilities;

(iii) safety of children walking or cycling to school;

(iv) neighbourhood community facilities;

(v) access to recreational and leisure facilities;

(vi) provision of government services;

(vii) community support networks;

(viii) local employment;

(ix) heritage values of school buildings.

(2) An assessment may include information about any other impacts in relation to closing or amalgamating the school.

Schedule 2

Education Amendment Bill 2008

Amendment moved by the Minister for Education and Training

1
Amendment 3
Proposed new section 20B (1) (a)
Proposed new subparagraphs (viiia) and (viiib)

insert

(viiia) student literacy and numeracy outcomes;

(viiib) other educational outcomes;

2
Amendment 3
Proposed new section 20B (1) (b) (iii)

omit
